

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

UNITED STATES OF AMERICA,) DOCKET NO. 5:15-cr-15-1
)
 vs.)
)
STEVEN W. CHASE,)
)
 Defendant.)

)

TRANSCRIPT OF SENTENCING HEARING
BEFORE THE HONORABLE RICHARD L. VOORHEES
UNITED STATES DISTRICT COURT JUDGE
MAY 1, 2017

APPEARANCES:

On Behalf of the Government:

CORTNEY S. RANDALL, ESQ.,
Assistant United States Attorney
227 West Trade Street, Suite 1700
Charlotte, North Carolina 28202

REGINALD E. JONES, ESQ.,
United States Department of Justice
1400 New York Avenue, NW
Washington, DC 20005

On Behalf of the Defendant:

PETER ADOLF, ESQ.,
Federal Defenders of Western North Carolina
129 West Trade Street, Suite 300
Charlotte, North Carolina 28202

LAURA ANDERSEN, RMR
Official Court Reporter
United States District Court
Charlotte, North Carolina

<u>DEFENDANT WITNESS:</u>	<u>I N D E X</u>	<u>PAGE</u>
MATTHEW MENDEL		
Direct Examination By Mr. Adolf		11
Cross-Examination By Ms. Randall		37
Redirect Examination By Mr. Adolf		73
Recross-Examination By Ms. Randall		77

P R O C E E D I N G S

MONDAY, MAY 1, 2017:

(Court called to order 2:02:)

THE COURT: Good afternoon, ladies and gentlemen.

MR. ADOLF: Good afternoon, Your Honor.

THE COURT: Are the parties ready to begin?

MR. ADOLF: Yes, Your Honor. We do have -- there are some matters that have come up since last week --

THE COURT: All right.

MR. ADOLF: -- before we start the sentencing that I would like to bring to the Court's attention.

The Government filed a new pleading on Friday. I'm sure Your Honor's seen it. It is their sentencing memorandum. And in their sentencing memorandum, one of the factors that they want to argue is the disparity, is the 3553(a) factor of avoiding disparity among similarly situated defendants. And for that purpose what they've done is they've included about a dozen cases from other jurisdictions that they say got severe sentences and that they say the cases are similar enough to Mr. Chase's that it would be unfair or violate 3553(a) if he were to receive any kind of departure or variance, comparing his cases to those cases of the other defendants.

Again, this was just filed on Friday. It was the first I heard that they were going to make such an argument. And what -- all they did was list the names of the defendants,

1 their sentences, and a couple of facts about them. And I
2 think this is really problematic for a bunch of reasons.

3 Apparently, what the government has done -- this is
4 not a situation of dealing with guidelines or looking at rates
5 of departure or other publicly available information. This is
6 saying that these other defendants around the country are
7 similar to Mr. Chase on the facts, and that therefore he
8 should be treated similarly as them.

9 The problem is, they've only told us a few facts
10 when the reality is they have all the facts. These are cases
11 that were prosecuted by the child exploitation section.

12 THE COURT: Why wouldn't this simply be a matter of
13 argument appropriate on your part at the time we're arguing
14 about an appropriate sentence?

15 MR. ADOLF: Well, because, Judge, if what the
16 government is saying there are cases around the country that
17 are similar to Mr. Chase, and therefore the Court should take
18 those cases into account in sentencing him, then we need to
19 know what the facts of those cases are because --

20 THE COURT: Well, you can read them as well as the
21 Court; is that right?

22 MR. ADOLF: No, Your Honor, and here's why. What we
23 don't have is, we don't know if those people, for instance,
24 have criminal histories. Mr. Chase is a criminal history I.
25 We don't know if those people abused children in real life.

1 We don't know what guidelines were. We don't know whether
2 there were upward departures or anything else.

3 THE COURT: I think all of those reservations as
4 stated would apply and could be brought to the Court's
5 attention that the Court should give the cases cited little or
6 no weight because of the very matters you're bringing up.

7 MR. ADOLF: Well, Judge --

8 THE COURT: But as far as them being matters of
9 record, the Court can read those cases, you can, and the
10 government can.

11 MR. ADOLF: Well, Judge, the problem is, they're
12 not -- what they're not doing is, they're not citing published
13 opinions or other information that's generally available.

14 THE COURT: Well, now let me get you right on that.
15 They cite cases and give the citation so that you can go read
16 that case; is that correct?

17 MR. ADOLF: They give a case number. They don't --
18 there's no -- for most of them that I've been able to find
19 there aren't published opinions or anything online. There was
20 one that I was able to find where there's an unpublished, but
21 at least available online, appellate opinion that talks about
22 the facts. And that is *United States versus Maweu*. Which I
23 was only able to find because the defendant has an unusual
24 name.

25 But that's a case that they cite as being similar to

1 Mr. Chase's. They don't say why other than the sentence.

2 And in the appellate opinion -- at least in that
3 case there was an appellate opinion. It turns out that that's
4 a defendant who sexually abused, raped a number of children
5 himself and filmed it, and then had a website where he was
6 publishing it. That was an entirely different case from
7 Mr. Chase.

8 I think for the government to come in and list a
9 name, a case number, and a sentence, and not talk about those
10 distinct differences makes me concerned about all of it. That
11 what we should be doing, if the government really believes
12 that those cases are similar to Mr. Chase, which is what
13 they're arguing, and they're arguing specifically under the
14 statute that the Court should sentence him the way they were
15 sentenced, then we need to see what those facts are and how
16 they are different from his. They have the presentence
17 reports in all those cases.

18 THE COURT: The Court would simply make the
19 observation that -- first of all I will hear from
20 Ms. Randall -- but I think it's abundantly obvious that what
21 the government has done is very common in cases of this sort
22 where the government or the defendant, as the case may be,
23 would cite a case and the first thing the Court knows about it
24 is that it may or may not have anything to do with the current
25 case in terms of its relevance and that's for argument. I

1 think you're unduly focusing on this at this particular stage.
2 We'll hear from you later on and you can argue exactly what
3 you've already argued that somebody got a 540-month sentence,
4 444, 420. I'm looking at the same things you are and I'll
5 hear your arguments about that. But sounds to me like you
6 want to hear -- have the case tried, each one of these
7 separately so that we'll know exactly what the facts were.
8 That's not going to ham.

9 MR. ADOLF: I understand, Judge. I also understand,
10 though, that the normal cases is where we're all working from
11 the same set of information and making our arguments, in this
12 case the government has picked those cases out of all the
13 dozens or maybe hundreds that unit has prosecuted. They have
14 all the presentence reports; I don't. They have all the facts
15 available; I don't. I don't have any way of getting them. I
16 asked them for those. They refused to turn them over.

17 So I understand the Court's ruling and we'll proceed
18 to argument if that's the Court's ruling.

19 For the record, I'm asking for the presentence
20 reports in the cases that they cite as being somehow similar.
21 And if it comes to it in argument and there's a specific
22 prejudice that I think is happening, I'll bring that to the
23 Court's attention, but other than that I'll stand by the
24 Court's ruling and we can proceed.

25 THE COURT: All right. I have no complaint with

1 your ardent advocacy. But my statement -- I believe it covers
2 the matter up to this point. We'll hear from Ms. Randall.

3 MS. RANDALL: Thank you. I just want to clarify a
4 few things. Specifically, the last thing he said, the
5 government is refusing to turn over what he requested.

6 Mr. Adolf requested that we turn over the
7 presentence reports of the co-defendants and the other
8 individuals he referenced. We are legally prohibited from
9 doing that. The case law has made it clear, as well as the
10 statute that we were not allowed to turn over -- third parties
11 are not allowed to access presentence reports.

12 There's a Fourth Circuit case directly on point that
13 if a defendant wants to see someone else's presentence report
14 they have to make a particularized showing that it's
15 significant and material to the case to a court. And then the
16 Court can choose whether to do an in-camera review of that
17 document and the whether or not to turn over to defense
18 counsel.

19 He has not made that request in this case, Your
20 Honor, and therefore we are not allowed to turn over the
21 documents he is seeking.

22 Furthermore, I can tell the Court, neither of us
23 were involved in the prosecution of those other cases. We
24 have not seen those presentence reports. The information we
25 put in the sentencing memorandum came from publicly available

1 documents. For example, I have in front of me a press release
2 on one of the cases where they talk about the roles of the
3 defendants and what the defendants were sentenced to. I have
4 the sentencing memorandum from one of the defendants. I found
5 this, Your Honor, by simply Googling the defendant's name, and
6 it's online. It's an unsealed sentencing memorandum where
7 they talk about the foggy defendant, his co-defendants, what
8 they pled guilty to, who cooperated, what their sentence was,
9 what the government recommended their sentence to be. And all
10 that information is available to Mr. Adolf to use in his
11 argument but he did not go out and find it.

12 With regard to the co-defendants, Your Honor, we do
13 have access to those presentence reports. However, as I said,
14 we can not legally turn them over. But Mr. Adolf is welcome
15 to come to their sentencings, which have already occurred, and
16 stand here and listen to the parties debate the 3553(a)
17 factors, including the facts of those cases, their criminal
18 histories, all the factors in the PSRs before this Court,
19 because that was a public hearing, Your Honor, that he could
20 have been at. So he had the opportunity to be prepared for
21 that argument, Your Honor, but simply chose not to. So for
22 him to say the government is refusing to give him the
23 information is simply not true.

24 THE COURT: All right. So we'll proceed with
25 sentencing.

1 Is your name Steven W. Chase, sir?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. The Court takes note the
4 matter was decided by verdict back on September 16th, of last
5 year, it appears, based on a Second Superseding Indictment and
6 that established the factual basis.

7 So, Mr. Chase, are you fully satisfied with the
8 services of your attorney in this matter to date?

9 THE DEFENDANT: Yes. Yes. Yes, sir.

10 THE COURT: All right, sir.

11 Do you have a copy of the presentence report there
12 at counsel table?

13 THE DEFENDANT: Yes. Yes, sir, I have.

14 THE COURT: All right. Have you gone over that
15 carefully with Mr. Adolf and discussed it with him in detail?

16 THE DEFENDANT: Yes. Yes.

17 THE COURT: Do you believe you understand it?

18 THE DEFENDANT: Yes.

19 THE COURT: All right. Are there any outstanding
20 objections, Counselor?

21 MR. ADOLF: Judge, my objections have been
22 incorporated into the presentence report as potential
23 recommendations for departure or variance; other than that
24 there aren't any.

25 THE COURT: All right, sir. Thank you.

1 The Court will adopt the presentence report for all
2 purposes of sentencing, finding it credible and reliable and,
3 moreover, that it accurately scores the Guidelines under 43
4 offense level, and criminal history category I, based on zero
5 criminal history points.

6 So we'll hear you, Mr. Adolf.

7 MR. ADOLF: Your Honor, as Your Honor's aware, I
8 have witness testimony to present. The report has been filed.
9 It's the report by Dr. Mendel who is here present in court
10 today. So I guess I would call him to the stand at this
11 point.

12 THE COURT: Yes, sir. You may.

13 MR. ADOLF: Defense calls Dr. Mendel.

14 MATTHEW MENDEL, DEFENDANT WITNESS, SWORN

15 DIRECT EXAMINATION

16 BY MR. ADOLF:

17 Q. Dr. Mendel, good afternoon.

18 A. Afternoon.

19 Q. I know that the Judge has reviewed the report that you
20 wrote in this matter so I'm just going to ask you a few
21 questions about the report and about your evaluation of
22 Mr. Chase.

23 What is your educational background?

24 A. I received my AB, Advanced Baccalaureate from Princeton
25 University in 1984 with a major in psychology. I received

1 both my Master's degree and my Ph.D, both in clinical
2 psychology from the University of Michigan, with a Master's
3 degree -- actually pausing about the year because nothing
4 really changes. It's not a terminal Master's degree, you get
5 it as in the process of getting the Ph.D., so -- I believe,
6 though, it was 1989 that I got my Master's degree. Then I got
7 my Ph.D. in clinical psychology in 1992.

8 Q. And among the various positions that you've held, you've
9 also been in private clinical practice since getting your
10 Ph.D.?

11 A. That's correct, I did. For the first few years I was in
12 two different group practices. But I've been totally solo in
13 solo private practice since 2001.

14 Q. So over the last 15 years or even before that, what has
15 been your primary focus clinically?

16 A. I've had a couple of them. Ever since I was in graduate
17 school I worked a whole lot of adult male survivors of
18 childhood sexual abuse. That was what my dissertation was on,
19 and then I turned the dissertation into a book a few years
20 after I completed my Ph.D.

21 So one area that I work with a lot are adult men who were
22 sexually abused in childhood. That's -- with only a few
23 exceptions, those are the only adults that I work with. Other
24 than that I work primarily with children and teenagers -- not
25 real little kids but basically upper elementary school, middle

1 school and high school. And I work with a variety of
2 different problem areas or diagnoses. But the one I work with
3 the most among, among my clientele is high functioning autism,
4 including what until recently was referred to as Asperger's
5 disorder and now is called Autism Spectrum Disorder.

6 Q. Now what you've been talking about is your clinical
7 practice, that is, actually treating patients?

8 A. That's correct.

9 Q. And in the context of treating patients you've dealt with
10 numerous male survivors of childhood sexual abuse, also people
11 with what's now called Autism Spectrum Disorder?

12 A. That's correct.

13 Q. And there's some overlap between those two.

14 A. There is some overlap but -- well, I think research says
15 that people on the autism spectrum actually do have a higher
16 rate of being victims of sexual abuse. Basically any
17 population that would be considered a vulnerable population.
18 So, you know, people in extreme poverty have higher rates of
19 sexual abuse than people who are better off. People who are
20 cognitively disabled have higher rates.

21 So there is something of a correlation but for the most
22 part in my practice those are two separate areas. Partly
23 because clinically the sexual abuse population -- those are
24 adults who are self-referred to me, men who will call me or
25 see my website or contact me through an organization called

1 "The Male Survivor" that lists experts in the area -- and
2 they'll come and contact me for treatment help regarding
3 sexual abuse. For the most part, those sort of self-referrals
4 are not people on the autism spectrum.

5 So my specialty with autism is really it's a pretty --
6 pretty completely separate population. It's kids, you know,
7 whose parents bring them for treatment. Basically kids who
8 don't have friends, are socially awkward, socially inept in
9 different ways, trouble making friends, keeping friends, often
10 very lonely individuals. And they come, and what I do is I
11 lead a social skills groups for kids. I don't work with them
12 individually or relatively rarely work with them individually.
13 It's mostly the social skills groups.

14 Q. Now I think you mentioned in your report that you don't
15 really consider yourself an expert on autism spectrum
16 disorder, per se?

17 A. Well, actually, I think what I said -- I hope what I said
18 is that I don't consider myself an expert in the diagnosis or
19 the assessment and diagnosis of autism spectrum disorder. I
20 do consider myself an expert in the treatment of specifically
21 social skills treatment of children, teenagers, young adults
22 on the autism spectrum.

23 But, no, I did go through a whole training on doing
24 autism assessments. There's a particular instrument called
25 the ADOS, the Autism Diagnostic Observation Schedule. I went

1 through a two-day training for it and learned it, did a few
2 and then had reached a realization that, you know, there's
3 people out there who do this a bunch who are really good. I
4 have five or six colleagues in Raleigh who are adept at
5 assessing autism. And I felt I had plenty of niches so I
6 decided I don't need the assessments to know whether somebody
7 would be appropriate for my social skills group. If they're
8 having trouble socially. If they're socially awkward, shy,
9 few or no friends, they're going to be appropriate for my
10 group. And if I ever really need -- feel like, okay, this
11 person needs to have an assessment to see if they do meet the
12 diagnostic criteria for autism, I have plenty of people to
13 refer to. So I just decided not to pursue that direction.

14 Q. Now we've been talking about what your clinical focus has
15 been over the course of your practice. You also do forensic
16 evaluations?

17 A. That's correct.

18 Q. And what -- how many of those have you done over the
19 years and what sort of cases?

20 A. I believe -- well, I believe when I wrote this report I
21 wrote that I had been involved in 145 forensic evaluations.
22 It's probably closer to 150 now. And those are -- those are
23 pretty specific. I mean, it's a pretty circumscribed forensic
24 area that I do and that has to do with the long term impact of
25 sexual abuse.

1 Sometimes I'll get contacted by an attorney or a defense
2 team and I'll be told, We don't think this individual was
3 sexually abused, but he just has a whole lot of trauma in
4 childhood, physical abuse, negligent, whatever. We would like
5 you to do an evaluation.

6 Because what I do is I go out and I do an evaluation,
7 generally speaking, focusing on impact of sexual abuse. But I
8 always try to put that in the context and not just say, Oh he
9 was sexually abused, therefore, such and such. But instead,
10 to look at the entire childhood, the individual's entire life,
11 their strengths, their weaknesses, their resources. So
12 including sexual abuse, but also including whatever else might
13 have gone on, positive or negative, in their childhood and
14 discuss the impact. I think as a result I've ended up getting
15 contacted to do evaluations sometimes when there's no sexual
16 abuse involved.

17 But generally speaking there has been either suspicion or
18 knowledge of childhood sexual abuse on the part of the
19 defendant. The vast, vast, vast majority of the cases I've
20 been involved with have been murder cases, and of those,
21 almost all of them have been capital murder -- have been death
22 penalty cases.

23 So the most -- for the most part I'm doing assessments in
24 cases where the person -- most of them end up -- there ends up
25 being a plea, some end up going to trial. But generally

1 speaking the decision point facing a judge or jury, if it goes
2 to trial, is death penalty or life without parole.

3 Q. And you've testified before in a number of different
4 state courts and also in federal court?

5 A. I think this is either my 19th or 20th time testifying.
6 And, yeah, I've testified in North Carolina state court,
7 Wyoming state court, California state court, Arizona state
8 court, Texas state court, Mississippi state court. The only
9 federal -- the only time I testified federally was actually
10 U.S. military. So it was U.S. military jurisdiction. That
11 was not a murder case. That was the only time I've testified
12 previously in anything other than a murder case.

13 Q. And you have been qualified as an expert in forensic
14 psychology the times that you have testified?

15 A. Yes. In all of those -- sometimes it will be more
16 specific. It might be forensic psychology or impact of sexual
17 abuse or something along those lines.

18 MR. ADOLF: Your Honor, at this point I would
19 proffer Dr. Mendel as an expert in forensic psychology and the
20 effect of childhood abuse on men.

21 THE COURT: So ordered.

22 MR. ADOLF: Thank you.

23 Q. Dr. Mendel, you interviewed Steven Chase for a number of
24 hours and reviewed records and prepared a report on him.

25 A. That's correct.

1 Q. And you're aware that that report has been submitted to
2 the Court.

3 A. Yes.

4 Q. I just want to hit a couple of points about it. In the
5 report you say that you don't believe, after reviewing all the
6 records and spending six or seven hours evaluating -- talking
7 to Mr. Chase and evaluating him, that he actually is a
8 pedophile or is sexually attracted to children.

9 A. That's correct.

10 Q. Could you explain to the Judge how it is that you arrived
11 at that --

12 A. Yes, I -- I'm sorry. I cut you off.

13 Q. -- and what factors went into that.

14 A. Well, I -- prior to interviewing Mr. Chase I had read all
15 the records that I was provided. Basically, the presentencing
16 report, an interview that the paralegal in the case had
17 conducted with Mr. Chase, the discovery provided by the state
18 and the -- I don't remember what it was called, but basically
19 the -- the document -- pardon me -- the expert voucher
20 containing the request for my services, and then the
21 Superseding Bill of Indictment, also some medical -- some
22 medical records.

23 I went in to see him completely expecting -- I guess even
24 assuming -- I -- I try not to assume but I -- I went into the
25 meeting assuming -- at least expecting that Mr. Chase was a

1 pedophile. And my expectation was that the reason that he was
2 involved with PlayPen was due to sexual attraction to
3 prepubescent or underage children.

4 So in terms of what led me to the conclusion that he is
5 not a pedophile, it was really pretty entirely the interview.
6 I -- I found him to be a very -- a challenging, interesting,
7 fascinating human being. And one whose story, in my opinion,
8 does not mesh with that of a person who dictates these actions
9 involvement with child pornography network, due to sexual
10 attraction but due to a number of other factors which I found
11 to be very compelling and, of course, I'll be happy to
12 discuss.

13 Q. Yes, please. Please, now just as background, you
14 understand that most of the time when people are involved with
15 a child pornography website it's because they're attracted to
16 children and this is their sexual --

17 A. Absolutely. And that's why that was certainly my
18 assumption. And, I mean, and even as I -- one of the things
19 that I had heard before going in, I think from the interview
20 that the paralegal had done previously and then heard directly
21 from Mr. Chase, was about his lack of interest -- his --
22 basically his avoidance of having sex with his wife of 20
23 years and with the one previous relationship he'd been in.

24 And in my notes I write, "So does this mean that his
25 sexual interest is exclusively in children."

1 So even early on in the interview I'm thinking, okay,
2 this is -- so he's not interested and doesn't want to have sex
3 with women -- the adult women with whom he is involved. Does
4 that mean that he has an exclusive interest in children?
5 Because some pedophiles are exclusively pedophiles. That is,
6 their only sexual attraction interest is to children, whereas
7 others may also have attraction to others. At that point --
8 to adults.

9 At that point I was still operating under the assumption
10 or expectation that Mr. Chase was a pedophile. And I wondered
11 if this was in fact the reason that he was not interested in
12 sex with his wife or with adult women.

13 I discovered, in my opinion, that that was not the case.
14 That that was not the reason.

15 Q. So what's different about Mr. Chase from a typical
16 pedophile who looks at or is involved with child pornography?

17 A. I think his motivations for pursuing child pornography
18 and being involved with it were completely, completely
19 different. The -- and I guess probably the best way to do
20 this is to talk about his childhood, and that I think was the
21 guiding or formative factor in his involvement with PlayPen 50
22 years later, 45 years, whatever it was.

23 So briefly about Mr. Chase's background. His -- he was
24 born to an intact union, mother and father. He's the older of
25 two children. He has a sister about two years younger than he

1 is.

2 When he was about four years of age, his mother, Fern,
3 died very young, tragically, and secondary to a heart
4 condition she had. So he would have been four at the time,
5 younger sister Carol would have been about two. And the
6 father was working full time, wasn't able to provide, you
7 know, full time care for the two children and they went to
8 live with relatives. I believe it was relatives on the
9 mother's side. But this is all in the same area of New
10 Hampshire.

11 He lived -- he and his sister lived with a maternal aunt
12 and uncle and also with maternal grandmother, I believe that
13 was all in one home, though it may have involved some time in
14 her home, some time in -- I think it was mostly all in one
15 home that the grandmother and aunt and uncle lived, perhaps
16 also a couple of cousins.

17 So they were living there and the father would see them
18 on weekends. The father, he said, would usually pick up both
19 children, you know, as I guess from the time he was about five
20 until he was about nine. Again, the sister would be two years
21 younger.

22 He said his father would usually pick up both children
23 for the weekend but sometimes would just pick up Steve. And
24 during those times when he would -- just Steve was picked
25 up -- this was one of the most striking descriptions that

1 I've -- I've ever heard clinically or forensically. Because
2 it was a description of significant sexual abuse. But it was
3 a description of it as sexual contact -- contact occurring in
4 the context of what were the -- what he recalls, at any rate,
5 the best, happiest, most love-filled period of his entire
6 life.

7 He said that he has never been loved, never felt loved
8 like he did for those few years by his father.

9 He talked about being his father's "special little guy"
10 during this time. He talked about how they would go -- what
11 they would do, the times when it was just the two of them.
12 They would -- they would camp. They would hike. Depending on
13 the season, they would ski. It was very outdoors. And the
14 sexual contact occurred in the context of these camping trips.

15 So he spoke about being on these trips, feeling so close
16 with his father. He said at one point that "Most kids
17 wouldn't dream about having this sort of relationship with
18 their father." And he's not saying, "Most kids wouldn't dream
19 of this horror of the sexual abuse." It was that, "Most kids
20 wouldn't dream about having this kind of closeness or feeling
21 so loved by their father."

22 There were certain things that stood out to him as
23 tremendously special, and this one that he spoke about
24 numerous times was that his father would have him help him go
25 and get firewood. This would occur, both on occasions at the

1 father's home, weekends there, and then certainly when out
2 camping. That they would go out, his father would cut wood,
3 and he would help his father carry the firewood back and start
4 a fire. And he said, "That was our special thing. That was
5 our job that we did." That will come back later as something
6 that was an enormous loss for him when he was no longer
7 allowed to do that.

8 This sort of relationship went on for, you know,
9 somewhere around three, maybe four years, roughly, five to
10 eight, or five to nine, something like that. During this time
11 there was repeated sexual contact. It involved his father
12 fondling him, having Steven, little Steven fondle the father,
13 fondle the genital area, and having Steven perform oral sex
14 upon him, upon the father. He said, he does not recall his
15 father ever performing oral sex on him. Nor does he recall
16 there ever been anal penetration in either direction. But
17 this is a question that he has had throughout his life,
18 something he's never sought medical attention for. But he
19 said that he, to this day, experiences rectal or anal pain
20 that he says is slightly inside the anus maybe, said, a couple
21 inches in. And he wonders if that could be a long-term
22 consequence of being anally raped. But he has no recollection
23 of that ever happening. So what he recalls is the mutual
24 fondling in each direction and him performing oral sex upon
25 his father.

1 He said that this went on throughout the time that --
2 throughout those several years until his father remarried.
3 And this was where he made what I think is a tremendously
4 significant slip of the tongue. He said -- he said, "Until my
5 father got a new wife." And I think for him that is precisely
6 what happened; that he was replaced. And the sexual contact
7 completely stopped, but so did all of the specialness, all of
8 the sense of being Dad's special little guy and having their
9 special little relationship. And as he told about it, he
10 referred several times to the firewood. Which to him I think
11 represented this special relationship.

12 Now they were all living together. Father William,
13 father's name, the stepmother Louise, and then Steve and the
14 younger sister Carol. No more sexual contact. And he said
15 that his father wouldn't let him carry firewood anymore. That
16 was no longer their thing.

17 He said that the sexual abuse stopped and what happened
18 was physical and emotional verbal abuse started. And he said
19 that this was really, really extreme. He would talk about his
20 father, basically -- I think this may have been his quote or
21 something close to it, basically beating the heck out of him.
22 That he would punch him with his fists, primarily in the
23 chest. He said most of this took place in the bathroom. That
24 the father would take him into the bathroom, have him stand in
25 the bathtub and just whale away on him, punching him in the

1 chest. He said that this happened very frequently. I don't
2 recall the exact frequency but that it was a frequent
3 occurrence. And it was also paired with his father pretty
4 constantly denigrating him, putting him down, saying that he
5 was an idiot, a dummy, that he would never amount to anything
6 that he was going to be a ditch digger, that's what he was
7 destined to be.

8 So he comes through this period, and I think this
9 transition is enormously important where there's this early
10 time that does involve sexual contact but that is a time when
11 he feels special, feels loved, feels this closeness. That's
12 replaced by a time when there is no sexual contact but there's
13 also no sense of being loved, no sense of feeling close to
14 anyone, no sense of being cared for.

15 He was not close with his stepmother either until
16 literally the -- after the father's funeral a few years before
17 his arrest. And it was occasioned by physical abuse,
18 emotional abuse.

19 And so he came through this period -- well, I think
20 throughout his adult life he thought about, I suspected over
21 time those early years took on much more of a glamorous,
22 glorified, idealized view that these were the wonder years.
23 These were the glory years that he never has experienced love
24 like that.

25 The closest he ever came was with his wife, Barbara.

1 That he felt like she was a genuine friend. That he never had
2 a friend before her, a close friend. I feel like I should
3 probably pause here at some point -- I don't --

4 Q. I was going to ask you about how it affected his
5 relationships going forward and what effects he talked about
6 and you saw regarding his adult relationships.

7 A. Okay. I think there's -- I think there's several and --
8 well, I guess, as I've said, I went in there expecting, okay,
9 I'm going to be talking to someone who's a pedophile and I'm
10 going to understand a connection with that and with childhood
11 events.

12 Instead, I just looked over my notes, my handwritten
13 notes that I take during the interview, and literally on the
14 first page about two-thirds of the page down I wrote, "Is he
15 autistic?" As a question to myself.

16 Again, I work -- that's not why I was called in. No one
17 had ever mentioned it. And that's not anything that -- that
18 was not a referral question here. But very quickly in
19 spending some time with him that question came to my mind.

20 He has lot of features that are consistent with people
21 with high functioning autism or an autism spectrum disorder.
22 His eye contact is poor. He described very early on having --
23 having no friends. That he grew up without friends. He
24 doesn't have friends. And he's used to having no friends. He
25 talked about the computer.

1 And this is, I think, tremendously important in
2 understanding his eventual involvement with child pornography.
3 He talked about the computer as soon as he came across it
4 being just the most wonderful thing he had ever -- ever seen.

5 He said that -- and I should say, people on the autism
6 spectrum -- not to suggest that everybody who's into computers
7 and adept at them is autistic -- but, boy, are a lot of people
8 who are on the autism spectrum, really, really into computers.
9 It's a very appealing and very safe way for them to interact
10 with others.

11 The kids that I work with, generally speaking, would
12 prefer -- that's a bad way to say it. They genuinely long to
13 have face-to-face contact with others, but they feel much more
14 comfortable, much more adept interacting with others on line.

15 Mr. Chase said that when he first saw a computer -- he
16 had just gotten, I think, AOL -- and he said he actually went
17 to look at pornography on it. He went to look at it and he
18 said he never got there. That he -- on the screen he saw
19 these moving images and he thought, oh, my goodness. That's
20 the coolest thing ever. That's not his exact words but
21 something to that effect. He was fascinated by it and that
22 became his preoccupying -- I would call -- obsessive interest.
23 And I use that phrase intentionally. That's something that in
24 a lot of the literature about autism people will talk about
25 people on the autism spectrum having a preoccupying obsessive

1 interest. That they just get so focused on something and
2 that's all they can think about, all they can talk about.

3 He talked in enormous length with him about particulars
4 about computers that frankly went totally over my head. But I
5 could tell how fascinating they were for him.

6 He said that he was looking at these moving images,
7 learns that they're from something called "Flash." He learns
8 that Flash costs \$800 to purchase. He doesn't have \$800. And
9 he spends all his time learning, teaching himself, Flash. He
10 mentioned a couple other programs that I don't recall. But
11 things for being able to do this himself. He said he learned
12 how to hack it because he couldn't afford to purchase it, and
13 he could actually then -- continue to use Flash after this
14 initial, you know, trial period.

15 And that became his life for a huge part of his life was
16 doing things on computers, creating websites, managing
17 websites for people, something -- I think it may have been the
18 first thing in Mr. Chase's life that he felt he was good at.
19 And he would get good feedback from people where they would
20 say, you know, Hey, good job on this. And, you know, he'd be
21 able to help people out. He felt -- he started to feel better
22 about himself.

23 This is a man who I think has suffered from chronically
24 low self-esteem, probably back to the days where he was told
25 that he was an idiot and destined to be a ditch digger. And

1 here he had some successes. He was doing these things. He
2 was fascinated -- separate from the successes he had with
3 dealing with websites, he had these dealings simply dealing
4 with these fascinating moving -- moving images and being able
5 to design and perfect websites.

6 He was working for a trucking company called Patico. He
7 designed their website. He managed their website. He talked
8 about his perfectionism with it. How he needed and wanted it
9 to be so perfect and to look just right and that he was always
10 updating it and correcting it, revising it, making it how he
11 wanted it to be.

12 Again, here's this person who through his life has been
13 socially avoidant, not had friends. His job with Patico,
14 though he later took on some other roles, his job was driving
15 a -- he told me the name of a vehicle -- a front loader
16 maybe -- driving a vehicle. And he said it was a perfect job
17 for him because -- this won't come as any surprise now -- he
18 didn't have to interact with anyone. He spent his day in the
19 cab of his vehicle driving it around doing his work; didn't
20 have to interact with people.

21 He's been diagnosed with anxiety disorders including
22 social anxiety and has been -- had some treatment, including
23 medication for it. I don't know diagnostically whether
24 Mr. Chase is -- would most appropriately be diagnosed as
25 having social anxiety, really very extreme, autism spectrum

1 disorder or both. He certainly has features of autism,
2 whether or not he would meet the full criteria.

3 Q. Now going forward I just want to focus on a particular
4 issue in this case and cases like this which is, if he were to
5 ever be released in the future, what the risk is of him
6 committing a contact offense against a child in person.

7 So I want to ask you one thing as a prelude to that: How
8 is the experience of looking at child pornography different
9 for him than it is for most people who are involved in child
10 pornography?

11 A. I would assume, as you said earlier, that the vast
12 majority of people who look at child pornography or spend
13 extensive time with it. Do so because of a prurient sexual
14 interest in children. That there's a sexual attraction,
15 arousal in response to sexualized images of children or sexual
16 activity involving children. That there would be masturbation
17 in response to or in the context of viewing these images. I
18 do not believe any of those were the case or are the case for
19 Mr. Chase.

20 I think his motivations in being involved with child
21 pornography and viewing it had to do with each of the factors
22 that I've mentioned already and actually one or two others.

23 In part, it was guided by this fascination with
24 computers, and then the pride he had and involvement he had
25 with websites. In part -- and the sense of success he had in

1 that involvement. In part -- I'm sorry -- I'll go to the
2 biggest part.

3 The biggest part is this -- at least in his
4 recollection -- this childhood relationship with his father,
5 which again was sexual in nature, but he experienced as a
6 joyful -- or at least he recalls as a joyful happy period.
7 And he talked with me about searching for that, wanting to
8 understand what it had been like for him, wanting to
9 understand what he had experienced.

10 And he said for that purpose he would look through these
11 photographs, these videos, and was frustrated by the fact that
12 the vast majority, as he described it to me, involved girls.
13 That didn't tell him anything about his experience. And the
14 ones of males, he said, were predominantly of teenage males.
15 Which also didn't tell him anything about his experience.

16 He was wanting to understand and I think to re-experience
17 what things had been like or what he felt things had been like
18 and to be able to better understand that between he and his
19 father. So he was looking for images involving boys in the
20 age range that he was in, this five or six to nine period.

21 Looking for sexual imagery that is similar to the sexual
22 abuse one has experienced is not at all uncommon. For most
23 people, though, it is a very different psychological
24 phenomenon. It is known, research wise, that people who are
25 sexually abused are at higher risks to perpetrate sexual

1 abuse. And that there's a connection with the age and type or
2 particulars of childhood sexual abuse and later sexual
3 perpetration.

4 So somebody who is sexually abused in the range -- a male
5 who is sexually abused somewhere in that age range of say
6 between five and nine, most do not go on to perpetrate abuse,
7 but they are at a higher risk, more likely than the general
8 population, to perpetrate abuse. And if they do, there is a
9 greater likelihood of them seeking out people precisely in the
10 age range when they experienced it.

11 The way we generally understand that has to do with
12 identifications, that is, does one identify with the
13 aggressor, with the perpetrator, or does one identify with the
14 victim?

15 So does someone who gets sexually abused at age six, it's
16 too painful to go through a life feeling like a victim and
17 seeing one's self as a victim. Some people do that and they
18 repeatedly end up in a victim role. But for many it's --
19 that's too painful, too psychologically threatening and
20 overwhelming, and instead they identify with the aggressor,
21 with the perpetrator. And they go on and perpetrate abuse on
22 others or some sort of abuse.

23 I think with Mr. Chase it is a variation of that victim
24 identification that I referred to a moment ago. I don't think
25 he in any way identifies with the adult males perpetrating

1 sexual abuse, whether that be his father perpetrating sexual
2 abuse on him, or the adults that he would view in the videos
3 and pornographic images, adults perpetrating abuse on
4 children.

5 He identifies with the children and -- but he doesn't do
6 so as, Oh, I'm someone who is going to keep getting
7 victimized. Because his focus was on this being this happiest
8 period of his life. The one time when he truly felt loved and
9 liked "Daddy's special little guy."

10 So he sought out images. And one of the things he talked
11 about is all of the images, all of the kids in these -- in the
12 pornography, all the kids in the videos and photographs, they
13 were happy, smiling, laughing.

14 Now, I doubt very much that that's true, that across the
15 board they all were. But I do think that that's what he was
16 seeking. He was, I think, seeking a particular subset. He
17 wanted to find pre-pubescent boys involved happily, willingly,
18 with older adult males. He was looking for himself. He was
19 looking for himself at the ages of five, six, seven, eight,
20 before Dad got a new wife. Before he stopped being "Dad's
21 special little guy" when he -- before he stopped being able to
22 do the special things. And that's, I believe, what motivated
23 him.

24 He told me -- and again, I found him to be credible, of
25 course there's no corroborating evidence of this. He stated

1 that he has never masturbated looking at child pornography.
2 He stated that he never obtained an erection looking at these
3 images. He described it as "fascinating" to him to see these
4 children and think, that's how I felt.

5 But that he never felt sexual arousal, excitement, never
6 masturbated looking at them. He has masturbated to
7 pornography but, exclusively by his account which I found to
8 be credible, pornography involving adult males and females
9 interacting.

10 Q. So, Doctor, based on the history, the -- what you
11 described in terms of research on people who are abused as
12 children in turn become abusers. Based on your clinical
13 experience and, of course, your interviews, your observations
14 of Mr. Chase, not just what he was saying, but how he was
15 saying it, how he interacts and behaves. Do you believe he
16 would be any risk of committing a sexual offense against an
17 actual child in person if he were ever released from prison?

18 A. I don't believe that he ever was, is, or would be at risk
19 of actually doing anything physically with a child.

20 I could not give that same -- state anything like that to
21 anywhere near that level of certainty about -- if you were to
22 ask whether there was any possibility he would ever look at
23 child pornography. I would not be able to give such a flat,
24 no, no risk.

25 But in terms of actual physical contact with children I

1 don't believe he's ever done that, ever had any interest in
2 doing that, and I don't believe there's any danger in the
3 future of him doing so.

4 MR. ADOLF: I have nothing further, Your Honor.
5 Thank you.

6 THE WITNESS: Your Honor, I'm very sorry to do this,
7 would it --

8 THE COURT: You need a break?

9 THE WITNESS: Yeah.

10 THE COURT: We'll do a break.

11 THE WITNESS: Okay.

12 THE COURT: Fifteen minutes.

13 THE WITNESS: Sorry guys.

14 (Recess at 2:58 until 3:15.)

15 MR. ADOLF: Your Honor, I'm sorry. There were two
16 questions I neglected to ask him on direct --

17 THE COURT: All right. You may.

18 MR. ADOLF: I would ask if it is possible to do
19 that? Thank you.

20 BY MR. ADOLF:

21 Q. Dr. Mendel, you're aware that a version of your report
22 that I submitted to the Court had a couple of redactions in
23 it?

24 A. Yes, I am.

25 Q. And what I would just ask you very briefly is, having

1 reviewed those redactions, would your assessment of
2 Mr. Chase's mental condition and future dangerousness change
3 at all in the absence of the specific information about what
4 he did or didn't do regarding the PlayPen website?

5 A. I have reviewed them just prior to my testimony today.
6 And, no, it would not change any of my conclusions or opinions
7 about Mr. Chase.

8 Q. And my other question is: You mentioned to me earlier
9 today, I guess it wasn't in your report, that Mr. Chase has an
10 unusual habit for an adult that you found shows some -- gave
11 us some insight into his behavior and his self-image. Could
12 you explain what that is to the Court?

13 A. Yes, but I don't think it's in my report.

14 Q. Right.

15 A. Okay. What happened was we were -- during our meeting
16 Mr. Chase was talking about how he doesn't have any money on
17 his books, you know for commissary, canteen, whatever. And
18 how he, you know, that's upsetting to him. And the comment he
19 made was, "I'm the only kid in here without any money on my
20 books."

21 And I was certainly struck by the, "I'm the only kid."
22 And I said, "The only kid?" questioningly. And he said,
23 "Well, I'm the oldest person in here." And I said, "But you
24 refer to yourself as a kid?" And he said -- he said, "Yeah,
25 I -- I've never grew up. I -- I -- I'm still a baby. I still

1 suck my thumb."

2 So I certainly took note of it. When I reviewed my
3 report yesterday and I went through -- I reviewed my report.
4 I've read that a couple times since writing it. Last night I
5 read the report and then I went back through all my interview
6 notes and saw that part and realized I had just neglected to
7 include it in my report.

8 Q. Why is that significant?

9 A. I think it's further -- I think it -- well, it's of
10 course still from his statements. I think it's more
11 indication, further corroboration that he really did get
12 stuck, psychologically, at a young age. That he's still, his
13 self image, the way he sees himself and much of how he feels
14 and his identifications are as a young child.

15 MR. ADOLF: Thank you. Nothing further, Your Honor.

16 MS. RANDALL: Thank you.

17 CROSS-EXAMINATION

18 BY MS. RANDALL:

19 Q. Good afternoon, Mr. Mendel.

20 A. Afternoon.

21 Q. I want to talk a little bit about your background before
22 we get into questions about the report.

23 A. Sure.

24 Q. You said you've done approximately, almost -- approaching
25 150 forensic evaluations.

1 A. Yes.

2 Q. Were those all criminal -- involving criminal cases?

3 A. I've been involved in, I believe, four civil cases so the
4 vast majority criminal, but I believe it's four civil cases.

5 Q. And with regard to the criminal, how many of those were
6 you hired by the defense counsel?

7 A. All -- all of them.

8 Q. And I think you said you kind of specialize in doing what
9 the impact of the individual sexual abuse is?

10 A. Right, that's been the primary area of specialty. But
11 what I was trying to convey is that over the years sometimes
12 it's been a little more general about impact of childhood
13 trauma, not solely sexual abuse.

14 Q. And you've done a number of presentations for defense
15 counsel on how to use sexual abuse as mitigation in a criminal
16 case?

17 A. Yes, I have.

18 Q. Um --

19 A. I'm sorry. Not necessarily for defense counsel, but
20 at -- I've done a number of presentations at different sorts
21 of conferences on that topic, yes.

22 Q. In the cases that you testified in, you said you haven't
23 testified in Federal District Court before today.

24 A. No, I have not.

25 Q. Were any of those involving sex offense?

1 A. In -- I'm pausing because quite a large -- pretty large
2 number of the 150 or so have involved sex offenses. I should,
3 just to be clear, it's almost always murder so -- but a chunk
4 of those, I don't know, probably at least 15 or 20 did involve
5 sex offenses as well. I don't believe I've ever testified in
6 any of those 15 or 20 or whatever it's been.

7 Q. Of the evaluations you've done, have any of those
8 involved someone charged with child pornography or child
9 exploitation offenses?

10 A. Yes, I believe this is either the third or fourth
11 evaluation related to child pornography but my first
12 testimony.

13 Q. Are you a member of the Association for the Treatment of
14 Sex Abusers?

15 A. No, I'm not.

16 Q. So do you predominantly work with victims versus abusers?

17 A. Absolutely that is correct, yes.

18 Q. What exactly were you asked to do in this case?

19 A. I could look it up if you want word for word, but
20 basically -- so this would have been in that "expert voucher"
21 that I was asked to conduct a forensic evaluation. I was told
22 that Mr. Chase had stated he had been sexually and physically
23 abused during childhood by his father. I was asked to
24 interview Mr. Chase to review records and assess the impact of
25 the alleged abuse upon him and to write a report with my

1 opinions regarding Mr. Chase.

2 THE COURT: Doctor, if you would stay a little bit
3 farther back from the mike --

4 THE WITNESS: Oh, sure. I apologize.

5 THE COURT: It kind of pops. Meantime we can hear
6 you fine.

7 THE WITNESS: Absolutely.

8 Q. So you were not originally asked to do a risk assessment
9 in this case?

10 A. No, I was not.

11 Q. Would you have done other tests or interviews or
12 corroboration of data if you knew you would be asked to offer
13 an opinion regarding his future risks?

14 A. I think if I were told that they would like me to do an
15 assessment of future risk I would have said that I don't have
16 any training or background in that area.

17 Q. So you have no training in offering an opinion regarding
18 the risk of -- the future risk of offending?

19 A. That's correct.

20 Q. But you just offered an opinion regarding his future
21 risk.

22 A. I was asked whether I thought there was any danger. And
23 I do not believe, based on my assessment of him, that there is
24 any danger.

25 Q. Well, what is that assessment?

1 A. I'm sorry?

2 Q. What are you basing it on? I'm confused. If you're not
3 trained in risk assessment, what are you using to support your
4 opinion?

5 A. I would say it would be on 30 years of clinical
6 experience on having read huge amounts about sexual abuse.
7 And probably most fundamentally, and this would relate to my
8 clinical experience, finding Mr. Chase to be credible in his
9 statements.

10 Q. We'll get to his credibility in a little bit. But
11 generally, isn't it well recognized in the field that basing
12 an opinion on -- solely on clinical experience is not a valid
13 indicator, unreliable?

14 A. That it's certainly not enough, no. This isn't -- this
15 is not optimal. I would agree with that wholeheartedly.

16 Q. So let's talk a little bit about what you reviewed for
17 your report. You talked a little bit about it. I
18 specifically want to ask you about the medical records you
19 reviewed. Where did you get those medical records from?

20 A. Everything I received was provided to me. I don't know
21 if it was from Mr. Adolf or from Nancy Smith, but that's who
22 sent everything to me. Nancy Smith is the paralegal who is
23 involved in the case.

24 Q. So what medical records did you review? I have, like,
25 titles here, but I'm not sure what they were for.

1 A. Well, Naples Community Hospital records, Behavioral
2 Medicine Associates records, Physicians Regional Hospital
3 records.

4 I know that one of those -- I want to say it's the
5 Physicians Regional Hospital records didn't have anything
6 particularly relevant. That it was solely about the surgery
7 to give Mr. Chase a pacemaker and maybe some monitoring of it.

8 I don't have -- I wasn't allowed to bring my computer in
9 so I don't have the documents themselves. I do have -- I take
10 notes when I -- as I'm reading documents so I would have notes
11 about the medical records so I could give you some sense of
12 what was in each if you would like.

13 Q. That would be great. Thanks.

14 A. You bet. Okay. So the first of them -- the first in
15 order of which I reviewed them was the Naples Community
16 Hospital records. And this does have some psychiatric
17 history, talks about generalized anxiety and panic disorder
18 untreated, aside from a few short trials of Zoloft which he
19 couldn't tolerate. No suicide attempts. Talks about
20 substance history, abuse history, talks about social and
21 developmental history. And then gives a diagnostic
22 impression, and a summary and plan, and this was all in 2011.

23 Q. 2011?

24 A. Yes.

25 Q. Do you know -- I'm trying to figure out why no one ever

1 noted this autism-like-tendencies before? That's what I'm
2 trying to flush out with kind of records --

3 A. Right. Yeah -- and, no, that did have psychiatric and it
4 noted panic disorder without agoraphobia, generalized anxiety
5 disorder. I don't know the answer to it. I do know that
6 people don't tend to think of autism in adults that they see
7 for the first time. When they see someone for the first time
8 in adulthood, I mean, it's something that's kind of always
9 with you. But when it's not diagnosed in childhood it's much
10 less likely to get picked up later on. I think that's
11 changing somewhat and increasingly people are getting referred
12 for evaluations in adulthood for high functioning autism.

13 But I don't know the answer why it was never considered
14 as -- actually, I don't know if it was never considered, but
15 why it was never noted in any of the records I saw.

16 Q. Okay. What were the next records you reviewed?

17 A. Behavioral -- Behavioral Medicine Associates. And I
18 believe he was referred from the first place I mentioned to
19 Behavioral Medicine Associates for continued therapy. And --
20 because that ranges from 2013 -- I'm sorry, 2011 to 2014.

21 So the initial notes have to do with follow-up visits
22 regarding anxiety and panic. He had been prescribed
23 medication for the anxiety at the first place. And it looks
24 like an adjustment was made. He was given both Celexa, and
25 Klonopin/Clonazepam at the first place, Naples. And then it

1 looks like he was continued on just Klonopin at the Behavioral
2 Medicine Associates. They talk about panic.

3 Then there's a gap -- I'm sorry, only just a couple month
4 gap. Yeah, he may have been seen very consistently. But then
5 there was a note where he came in in January of 2014 where his
6 wife had died two weeks ago. He said he'd been crying. They
7 increased the Klonopin.

8 He came in a couple weeks -- no a couple weeks later he
9 no-showed; didn't come to a session. Came in doing poorly,
10 sleeping 12 to 13 hours a day, doing the bear minimum at work,
11 anhedonia, it's a lack of pleasure, enjoyment, no appetite,
12 weight loss, social isolation, no suicidal ideation.

13 And then there's a later -- the next note after that is,
14 like five months later. So it goes from February till July
15 and it sounded like he had, in the interim, reported going
16 downhill but now -- oh, getting off his medication, doing
17 worse, getting back on it and gradually doing better. He's
18 sleeping better, less depressed, less anxious.

19 And then there's one final note in October: "Anxiety and
20 panic most days, not as much depression." So basically saying
21 the anxiety has continued but the depression seems to have
22 lessened as months had gone by since his wife's death. I'm
23 sorry, then -- oh, did you want me go down to the --

24 Q. Then the final records from the hospital. You said --

25 A. Yeah. Physicians Regional Hospital. I only have one

1 note about it. I think this is all about the heart surgery,
2 installation of the pacemaker. So I didn't make any further
3 notes about it.

4 Q. Do you have any notes of the year that occurred in?

5 A. I don't have it on here.

6 Q. And that's fine, if you don't have it you can just say
7 you don't know.

8 A. Yeah, I don't know.

9 Q. And then you said you did an interview with Mr. Chase.

10 A. That's correct.

11 Q. In reviewing your report and especially your opinion, you
12 seem to rely heavily on what he told you about his past and
13 why he did what he did?

14 A. That's correct.

15 Q. And you would admit that the statement he gave was a
16 self-serving statement.

17 A. Yeah, I think I even noted that in there. Yeah, that
18 these are his statements.

19 Q. And did Mr. Chase know that this could potentially be
20 used for the Court?

21 A. Yes, I always do forensic advisement in the beginning
22 saying I would be speaking with his attorney about this. And
23 if he and his attorney felt this would be helpful that they
24 could have me write a report, it could be used in plea
25 negotiations and potentially spoken of in open court. That's

1 pretty much -- I pretty much just gave you my forensic
2 advisement. That's what I say so --

3 Q. Do you know what malingering is?

4 A. I'm sorry.

5 Q. Malingering. Do you know what --

6 A. Oh, absolutely.

7 Q. Can you tell us what that is?

8 A. Sure. It's the faking or feigning of symptoms of
9 whatever sort. So it could be physical symptoms people can
10 malingering, or psychiatric symptoms for some sort of secondary
11 gain. So for some sort of benefit. So somebody might pretend
12 to have been injured, you know, to hurt their leg badly and
13 can't get about in order to get pay, workman's compensation or
14 money from insurance, that would be a form of malingering
15 somebody could be pretending to have. Or in some cases having
16 but exaggerating the severity of a psychiatric disorder or
17 psychiatric symptoms in order to -- also for the purposes of
18 disability. Or in a criminal case to mitigate or reduce
19 potential sentence. Those would all be examples of
20 malingering.

21 Q. So is malingering something you need to be cognizant of
22 when doing a forensic evaluation?

23 A. Would it be something I would be -- oh, yeah, absolutely.

24 Q. Did you know that Chase had received the diagnosis of
25 malingering in a prior forensic evaluation?

1 A. Yes, I think it said, malingering and rule out
2 pedophilia, I think it was.

3 Q. Did you review that report as well?

4 A. I think I was just told that. I don't think I had that
5 report.

6 Q. So you didn't have a chance to review it, as far as you
7 recall.

8 A. I don't -- I mean, I know I would have listed it if I had
9 and I don't -- I don't recall seeing a report. I know he'd
10 been -- I think I knew about it from Nancy Smith's interview
11 with him or the notes of those where there's a reference to
12 him being referred, I believe, to Lexington -- Lexington. I
13 don't know if that's North Carolina or Kentucky. I assumed
14 Kentucky, but I don't know. And having an evaluation and then
15 there's that reference to diagnosing him as malingering and
16 rule out pedophilia.

17 Q. But do you -- if you didn't see the report, do you know
18 why they came up with that diagnosis?

19 A. I know Mr. Chase's description of that.

20 Q. What is that?

21 A. He said that the woman who did the evaluation latched on
22 to this -- this notion at the beginning that he -- and
23 started -- he said, Yelling at him. Saying, you know, You're
24 a pedophile and you're just saying this so you will get out of
25 this. He was, like, No, I'm not. But he said, She wouldn't

1 hear any of it. She was just convinced that that was the
2 case. So his sense was that she did not have an open -- open
3 mind about his situation.

4 Q. But there are tools that an evaluator can use to
5 determine if someone is malingering, correct?

6 A. Yes. There's a number of -- I mean, one of which I use,
7 you know, it's called "The Structured Inventory of Reported
8 Symptoms." There's a Test of Memory Malingering, there's --
9 there's several.

10 Q. Are you familiar with a Validity Indicator Profile?

11 A. I am, yeah.

12 Q. And is that a well-recognized tool in your community to
13 determine if someone is malingering?

14 A. Yes. I don't do -- just to be clear, I never
15 administered either the Test of Memory Malingering or the
16 Validity Indicator Profile because that's not really my focus.
17 I'm not doing an overall assessment.

18 I have administered the Structured Interview of Reported
19 Symptoms, which I think those three, the one you mentioned and
20 the two I mentioned may be the most common malingering
21 measures.

22 The reason I've done the Structured Interview --
23 Structured -- sorry, it's called the SIRS, and I can't
24 remember if the I is -- Interview -- not inventory --
25 Structured Interview for Reported Symptoms is when in the

1 context of an assessment or an interview somebody is
2 describing significant psychiatric symptoms. That's a way of
3 getting a sense of, are these -- are these real? Are these
4 believable? Or is this -- I wouldn't have thought it would be
5 particularly appropriate with him because he wasn't exactly
6 describing -- that's particularly involving psychoses, and
7 kind of really crazy stuff. And he wasn't describing anything
8 like that.

9 Q. Are you familiar with the MMPI?

10 A. Oh, yeah.

11 Q. Does that have a scale built into it to help an evaluator
12 determine if they're getting valid responses?

13 A. It has a number of validity profiles. The one with the
14 most relevance for malingering is what's usually commonly
15 referred to as the "faking bad" scale. So basically an
16 indicator when -- if somebody is trying to make themselves
17 appear much worse off psychiatrically than is actually the
18 case.

19 Q. So in this case when Mr. Chase told you that it was the
20 evaluator's bias that led to that finding, did you believe
21 him?

22 A. I believe that was his perception of him. I didn't see
23 the report. But I would have expected or assumed that
24 somebody in diagnosing malingering would have based it more --
25 more than on his or her sense of the statements of the

1 respondent. So I would certainly hope that she would have
2 done something like that.

3 Q. Well, in this case you say -- you mentioned you didn't
4 perform the one validation tool because it wasn't appropriate,
5 correct?

6 A. Well, I didn't do it because I didn't do any
7 psychological testing. SIRS isn't something I would have even
8 considered because he wasn't reporting serve psychiatric
9 symptoms.

10 Q. What steps did you do to validate the information he gave
11 you?

12 A. Other than paying a lot of attention to internal
13 consistency, that is, is his story hanging together. Is it
14 all consistent with his statements to me at various points in
15 the interview and with things he had said otherwise. I didn't
16 perform any sort of testing or standardized validation
17 measures.

18 Q. So you didn't take any steps to determine whether what he
19 told you about the website was consistent with what the
20 website actually was?

21 A. I'm sorry, the website?

22 Q. Yeah, PlayPen.

23 A. Oh, I had that -- I don't know what it was, 1,200 page or
24 something, discovery from you all. So I had a -- I had a --
25 at least a pretty good sense of what it was. I mean, of those

1 1,200 pages, probably 800 are charts and tables and that I
2 didn't exactly pour over but I knew the basics of what it was.

3 I know that I sent to Mr. Adolf, to his defense attorney,
4 Mr. Chase's comment about the -- him not -- him being
5 frustrated at everything on there being girls or if there were
6 boys it being teenage boys. I don't think that was really the
7 case. I think that there were, you know, certainly
8 prepubescent males on the site. So I think that there were
9 some distortions but I don't know whether that's about him in
10 any way willfully distorting what the website was, as opposed
11 to him talking about what he looked for and what he found.
12 What he looked at on the website.

13 Q. We will come back to that in a few minutes. I want to
14 ask you another question about how you evaluated the
15 information. Did you attempt to corroborate any of his
16 statements by speaking to his family members?

17 A. As far as I know there are no family members that he's in
18 communication with even. But, no, I did not.

19 Q. So you were not aware that he was actually staying with
20 his stepmother just a month before his arrest?

21 A. I knew he was at the time -- at the time -- I thought at
22 the time of his arrest even. But I hadn't -- my understanding
23 was that they weren't -- they hadn't spoken in some time.

24 Q. But if you just wanted to corroborate his childhood, what
25 he told you about his childhood, particularly physical and

1 verbal abuse, his stepmother and his sister both would have
2 been witnesses and could have potentially corroborated that,
3 correct?

4 A. Yeah, not the sexual abuse because that stopped --

5 Q. Right.

6 A. And probably not anyone for the sexual. But, yeah, he
7 said that his stepmother would certainly have been aware of
8 the physical abuse. And he thinks that she probably would
9 have had some idea there was something weird beyond that. I
10 asked him whether he thought she would know about that.

11 But I don't -- I don't pursue others independently. I
12 don't -- I mean, in the murder cases there's a mitigation
13 specialist who does that. I believe I did speak with Nancy
14 Smith about whether anybody like the sister -- the two that
15 you mentioned, the sister or the stepmother could provide
16 corroboration. I think that's when she said that there wasn't
17 communication with them. He said he hadn't spoken to his
18 sister in -- since, I believe since his father's funeral.

19 Q. Did you recommend or offer Mr. Chase a polygraph to
20 corroborate what he said?

21 A. That's totally outside my area. No, I did not.

22 Q. Are you familiar with penile plethysmograph?

23 A. I'm familiar with what it is. I mean, I don't have a --

24 Q. Can you explain what it is?

25 A. I don't have an intimate familiarity with it.

1 Q. Can you explain what it is?

2 A. Yeah, it's a -- it's a metal -- basically a metal --

3 Q. You don't have to go into detail how it works. But what
4 it is used to measure?

5 A. So it's something attached to a penis to assess arousal,
6 degree of obtaining an erection in response to various
7 stimuli. So it might be placed on the penis and then the
8 person would be exposed to an image of an adult female and it
9 gives numbers, I believe, about how much of an erection is
10 attained. And it would be used for assessing arousal for --
11 to child pornography or to whatever the stimulus might be.

12 I think that would be a great idea, by the way. I think
13 that would be really good to do.

14 Q. So it's a tool that could have validated or corroborated
15 his statement that he wasn't aroused by children?

16 A. Yeah. No, I love that plan. I encourage you all to do
17 that.

18 Q. Knowing that he had this previous diagnosis of
19 malingering, would you have concerns if you knew he presented
20 differently to a different psychologist?

21 A. Well, I think I would have concerns about difference of
22 presentation regardless of how -- regardless of whether there
23 was that diagnosis. I would like to see that report. That
24 would be good, I would agree.

25 Q. Did you ask Mr. Adolf if you could review it?

1 A. I don't believe I did.

2 Q. It wasn't offered to you?

3 A. I'm sorry?

4 Q. It wasn't offered to you?

5 A. No. No.

6 Q. Looking at your report, I want to first talk about the
7 characteristics you noted that leads you to believe he may be
8 on the Autism Spectrum Disorder.

9 You testified here today in your report that you are not
10 an expert in the diagnosis or the assessment of that disorder,
11 correct?

12 A. That's correct.

13 Q. You did not diagnose him with that?

14 A. No. No. I said, probably if I were doing a formal
15 diagnostic thing I would have listed that as a rule out along
16 with social anxiety and I think it can be both but those are
17 the two I wondered about.

18 Q. So as we sit here today there is no formal diagnosis of
19 Mr. Chase?

20 A. I was not asked to make a diagnosis and I didn't do so.

21 Q. Could you have made a diagnosis if you were asked?

22 A. Could --

23 Q. Could you have made the diagnosis if they had asked you
24 to?

25 A. I guess it depends -- it depends of what I -- I would be

1 really hesitant to diagnose autism. And it would have had to
2 be, you know, practically beat me over the head with that
3 diagnosis. It would have to be a very obvious one.

4 I did convey to them -- to Mr. Adolf and Ms. Smith, that
5 I wondered if it would make sense to get an autism assessment
6 expert in to evaluate him. I wasn't sure. I am sure that
7 there are features of it. I just don't know whether he meets
8 the full criteria.

9 As far as diagnosis in general, there are some that I
10 feel comfortable making. You know, if somebody describes
11 enough, you know, symptoms and especially if it's corroborated
12 by history of anxiety, social anxiety, depression, as is the
13 case here, you know, I'm comfortable making those kind of
14 diagnoses, substance abuse diagnoses by history I'm
15 comfortable with. Probably PTSD is the one I know best of
16 all.

17 Q. I think you previously testified that one of the reasons
18 you didn't go into the field of diagnosing is you know a lot
19 of people who are already doing that type of work, diagnosing?

20 A. Specifically with autism. I mean, it's such a -- you
21 know, it's a pretty rigorous, time-consuming thing. And I'm
22 like, wait, what would be the point? There are people who are
23 really good at it. I trust them. And I was not going to take
24 it up. They'll refer to me for the social skills group. I'll
25 refer to them to do the assessments.

1 Q. So you had someone you could have referred Mr. Chase to
2 for that diagnosis -- to determine if he had that diagnosis.

3 A. That's tricky. Because I would say of the people that I
4 work with that I know clinically, it's a pretty small
5 percentage that are -- either that do forensic work -- it's a
6 small percentage that do forensic work. And there's a pretty
7 big chunk that kind of say, if you, you know, mention forensic
8 stuff, say, there's no way I'm not coming -- I'm not coming
9 near that.

10 So having said that I do know -- I know one person in
11 North Carolina, but I'm not sure if he's retired, who does --
12 a huge name in the field of autism and has done forensic
13 assessments for it. And then I know a few people around the
14 country that do. So, yeah, if somebody said to me, We would
15 like to do an autism assessment in this forensic context. I
16 would say, I don't do it but I can get you some names.

17 Q. With regard to the characteristics you listed in the
18 report, the first one you listed was avoidance or lack of
19 interest in interactions with other people.

20 A. Yes, ma'am.

21 Q. Would that be consistent with someone who participates in
22 recreational activities and spends time engaging with other
23 people?

24 A. Say the end part of the question again.

25 Q. Is that consistent with an individual -- would that be a

1 descriptor of someone who is actually actively participating
2 in recreational activities and out engaging with other people
3 in a prison setting?

4 A. No. I mean, I wouldn't think so. I don't know that if
5 somebody is having some very limited degree of interaction, I
6 think it could be okay. Maybe they're -- if they're, you
7 know, taking part in an activity and standing off to the side
8 or on the fringes, yeah, then I would say that would be pretty
9 consistent. I mean, what he described to me was discomfort,
10 avoidance, not liking to be around people, not liking physical
11 contact of any sort.

12 Q. So the psychologists at the BOP noted that he was
13 participating in recreational activities and engaging with
14 other individuals in the jail, is not consistent with what he
15 told you?

16 A. If that was a description from somewhere else, that's
17 something that would not be consistent with being socially
18 avoidant.

19 Q. And you're basing describing him being socially avoidant
20 based on what he told you and not on anything you observed?

21 A. Right, I think it's all on his statements.

22 Q. You also noted his poor eye contact. Was that, I assume,
23 that was with you?

24 A. I think it was both with me and something he told me
25 about himself. I mean, that he said that he had poor eye

1 contact. I think I had already noted in my notes that I
2 already written down something about he has -- I think I said
3 fairly poor. I've seen a lot worse. It wasn't that he had no
4 eye contact but he -- his was somewhat limited.

5 Q. And is eye contact something you're kind of supposed to
6 look for to make sure they're engaged or is it just autism
7 spectrum disorder characteristic or why was it looked at?

8 A. Again, I didn't go in here looking for autism. But from
9 very early on he just seemed that there were a number of
10 things that seemed peculiar about his interaction. And one of
11 those was, he generally -- he would kind of speak to me like
12 this, you know. I -- if you were me and you were there, I
13 would -- he would be talking like this, occasionally glancing
14 up to me but generally not looking at me.

15 Q. Would you be concerned to know that he was reported as
16 having good eye contact in his prior forensic evaluation?

17 A. Yeah, I mean, that's certainly very interesting and makes
18 me regret more so not having read that report.

19 Q. How does it affect your opinion knowing that there's some
20 inconsistencies?

21 A. It raises questions because, yes, one is about
22 inconsistency in the different -- well, it's -- it would
23 clearly be an indication of inconsistency across the two
24 settings. One possibility would be the one that you're
25 raising about attempting to create a certain image, whether

1 with her, with me, or with both.

2 Another possibility is difference in presentation with a
3 male and with a female. There's people certainly that can
4 make eye contact with someone of one gender and not feel
5 comfortable with the other agenda. That's certainly true with
6 a lot of sexual abuse survivors.

7 So I don't know what to make of it but it certainly
8 sounds relevant to me.

9 Q. Moving on to what Mr. Chase has said. What did he tell
10 you about PlayPen?

11 MR. ADOLF: Objection, Your Honor.

12 The Government -- it's outside the scope of the
13 questioning. The Government is trying to get information to
14 use as admissions in case -- this case was at trial, it's
15 going to be on appeal. And I believe that his Fourth, Fifth
16 and Eighth Amendment rights to present information at
17 sentencing are impacted. If the Government is going to try to
18 use this to elicit admissions from him vicariously through the
19 expert. We already established his specific actions on the
20 website are relevant to what he was guilty of but not relevant
21 to what we're doing today.

22 So for all those reasons I think it's inappropriate.
23 I would object to it. And I would object to the Government's
24 use of it as an admission in any other context outside of
25 today.

1 MS. RANDALL: Your Honor, what Mr. Adolf is asking
2 you to do is to allow in the statements that are helpful to
3 Mr. Chase but keep out the statements that he deems are not
4 helpful to him. He's got in plenty of Mr. Chase's statements
5 through direct examination of this witness.

6 Now this witness has testified as to an opinion as
7 to the defendant's future risks, as well as why he engaged in
8 what he did. He talks about that he was seeking out images
9 that reminded him of his own sexual abuse. The Court and I
10 need to know what he is basing his opinion on. Is he solely
11 basing it on what Mr. Chase told him? Did he have an accurate
12 description of what the website was? What the evidence showed
13 Mr. Chase was doing on the website? And if Mr. Chase was not
14 being truthful with him, Your Honor needs to know that since
15 his opinion is solely based on what Mr. Chase told him.

16 THE COURT: Overruled.

17 THE WITNESS: So the question is what he told me
18 about PlayPen?

19 Q. Yes.

20 A. I'm going to need to -- is it okay to refer to my notes
21 from our interview?

22 Q. Yes, please do.

23 A. And I don't know exactly where -- I think this came up a
24 number of times, certainly was discussed quite a bit.

25 Well, actually, it started out right away. I brought --

1 I had brought my computer in with me because I was referring
2 to the documents that I had on the computer. And he was very
3 struck by me having a computer. And he started talking about
4 it, how computers are a perfect world. He said, "I don't like
5 people. I don't like being touched. I don't like being
6 looked at." He talked about the charges he's facing, that
7 "it's 20 to life." He said, "for turning on a computer." I
8 said, "What are you being charged with?" He said, "For
9 exploitation of a child." He said, "I didn't film anyone
10 didn't exploit anyone. I built a website for a customer. I
11 built a forum. I built thousands of websites. A customer
12 wanted me to build him a website to get him into the Dark
13 Web."

14 He started talking about his computer abilities. "I'm
15 completely 100 percent self-taught servers, websites." In
16 building the website, "I got caught up in it more than I
17 should have."

18 Then he talked a bunch about how he learned about
19 computers and teaching himself Flash. But I don't think
20 that's directly about -- let's see -- talked about a website
21 he built for that trucking company, talked about his wife,
22 talked about the man who had started Patco and helped him out
23 quite a bit.

24 Let's see -- okay. Yeah. And actually -- we got to it
25 actually through him talking about -- I assume this is the

1 person who did the previous assessment.

2 He said his attorney had sent him to see a female
3 psychologist and after 15 minutes she had heard -- she heard
4 what she did -- she heard -- I wrote she -- once she heard
5 what she did -- what she heard, a light went on and she kept
6 going on and on about me liking little kids.

7 I said, "Yeah, it did fascinate me. I knew it was wrong
8 but I didn't know it. I can honestly say I've never
9 masturbated looking at kids. Never got into underage porn.
10 Never looked at porn until -- never got into underage porn
11 until after my wife died." That he got -- learned about this
12 through Tor and Silk Road, the seeking drug stuff.

13 Then through Tor the next thing he found was underage
14 porn. He said, "Yeah, it did fascinate me." He said he was
15 fascinated with Tor.

16 And then he talked a whole bunch about users and these
17 ways of generating traffic. That you get a website that
18 creates fake users. And then once they get up to a certain
19 number that appeals to, I guess, advertisers, and that leads
20 to real users.

21 He said, "PlayPen was for a customer in Morocco." He
22 said, "I built PlayPen. I copied his"-- I guess this customer
23 in Morocco already had a website. He copied his and then shut
24 his down. He said, "I hosted dozens of websites, had lots of
25 servers, sold domain names. I built a website for this guy."

1 THE COURT: Let's go to another question.

2 Q. Was he paid by this customer to build a website according
3 to him?

4 A. I'm sorry. Can you please repeat that?

5 MR. ADOLF: Same objection, Your Honor. This is
6 well beyond the scope. It's irrelevant, and it's impinging on
7 his Fifth, Sixth and Eighth Amendment rights to present
8 evidence to the sentencer so he can obtain a fair sentence
9 while still maintaining his appellate rights.

10 THE COURT: Overruled. Much of that has been
11 reported in the Doctor's report.

12 Q. What did he tell you about how often he was on the
13 PlayPen website?

14 A. How often he was on it?

15 Q. Um-hmm.

16 A. I'm -- said, "It was fun dealing with these websites."
17 All I can remember about frequency is whether this was -- I
18 don't recall if this was from his statement or from the
19 discovery but that his stepmother had said when people came to
20 question her about Mr. Chase that she replied, "Well it's got
21 to have something to do with the internet because that's all
22 he ever does." That "He's always on it."

23 I don't recall him saying an estimate of the amount of
24 time. I mean, I know he said that he was -- I certainly had
25 the impression that he was on it a lot.

1 Okay. He said that he never -- until after his wife's
2 death he had never surfed the web, never made a Facebook
3 account until just before he got arrested. He said he did so
4 much helping people. And that he would talk about helping
5 people with website issues. I asked about PlayPen. He said,
6 "At first it wasn't. It was just to help the Moroccan guy.
7 Then all the time they were having problems with the log-in
8 and they spent the whole time trying to fix those problems. I
9 set up this beautiful world to run as they wished."

10 That's when he started talking about searching for things
11 related to him and his father.

12 THE COURT: Go to another question, please.

13 Q. Sir, you talked about how Mr. Chase was talking about
14 creating the website. Did he tell you about what sort of
15 things he did once the website was created? What he was
16 looking at? How he participated in the actual website?

17 MR. ADOLF: Judge, may I just have a continuing
18 objection to this line of questioning so I don't continue to
19 interrupt. I would object to all questions --

20 THE COURT: Continuing objection granted.

21 MR. ADOLF: Thank you, Your Honor.

22 THE WITNESS: His description of it was primarily of
23 troubleshooting and solving problems for others when people
24 would write in -- you know, write in a question about some
25 difficulty they were having.

1 But he also talked about, for example, that a
2 decision was made among the forum members not to include what
3 he referred to as "hurt core," which was a new term to me but
4 he described it as involving pain or torture or rape or
5 bondage of kids. And he said that a decision had been made
6 among the forum members not to include it.

7 That came up in the context of him talking about
8 how, in all these images he described seeing, the kids seeming
9 happy and smiling and laughing. And he said, you know, he
10 recognizes that's probably because they didn't include, you
11 know, that the members had decided not to have that.

12 The sense was that he was not an employee of the
13 site. I never got the sense he considered himself a member.
14 He talked about the members of the forum, the people using the
15 forum made that decision but that he didn't consider himself
16 that.

17 Q. You were aware he participated by uploading child
18 pornography on the website.

19 A. I assume he did every aspect of the administration of
20 what -- I don't know, website maintenance, management,
21 administration.

22 Q. Do you have an unredacted copy of your report with you?

23 A. I do.

24 Q. I would like to ask you about those redactions. I
25 believe the first redactions appear on page 6.

1 A. I don't have a redacted copy with me -- I don't have a
2 redacted copy. I have only an unredacted copy so you'll have
3 to refer to me to what's redacted and I can --

4 Q. On page 6 you write -- about four or five lines down, you
5 said, "that he has watched pornography but has never viewed
6 child pornography prior to" blank, "PlayPen." What's under
7 the redaction?

8 A. Creating.

9 Q. A couple lines down "He said that"... What does your
10 report go on to say there?

11 A. "He said that even after creating PlayPen and during the
12 time he managed it he never became excited or aroused, never
13 obtained an erection, viewing children, either in real life or
14 in the photographs or videos contained on PlayPen."

15 Q. Moving to the next paragraph, what does the first
16 sentence of your report say?

17 A. "Why then did Steven Chase create and maintain PlayPen, a
18 site dedicated to the viewing and sharing of child
19 pornography?"

20 Is there more redacted?

21 Q. No. And then on page 7, the second line of the first
22 full paragraph it reads: "I believe that Mr. Chase's efforts
23 to find or re-create his image of his early relationship with
24 his father was the central reason for his"...

25 A. "creation of and continued involvement in PlayPen."

1 Q. And then a couple lines after that there's a sentence
2 that starts: "As noted above, he described the process of
3 doing so in minute detail during our interviews."

4 What's the next sentence?

5 A. "Finally, Steven Chase clearly takes pride in the success
6 he experienced in creating and managing a forum with lots of
7 users. He appeared to me to" -- does it -- I don't know. I
8 have no way of knowing when to stop.

9 Q. It was just that sentence. Thank you.

10 You mentioned a couple times he said that he was
11 fascinated by looking at the images of the children being
12 happy, smiling, and laughing.

13 Did you believe him that's what the child pornography
14 actually depicted was happy children?

15 A. I believed that in a -- in a website or forum or
16 whatever, with thousands of pictures and photographs and
17 videos, that some would involve children appearing -- children
18 smiling, children laughing, children appearing happy. That
19 doesn't surprise me that some would appear that way.

20 And Mr. Chase actually made a comment that was very
21 striking to me in that regard. He said -- I asked him what he
22 thought about it seeing, you know, these children -- thinking
23 about these children smiling and laughing now. He said, "It
24 makes me feel sad." I said -- asked him why.

25 And he said, "To know that at that age, they don't know

1 what's going on and they all are seeming smiling, seeming
2 happy, laughing. But to know they're going to end up messed
3 up in the end like me."

4 Q. Were you familiar that there were forums on the website
5 dedicated to bondage, bestiality, Scat and things like that?

6 A. What did you say after bondage? What were the --

7 Q. Bestiality and Scat.

8 A. I confess, I'm not even sure what Scat is. Not only
9 didn't I know, wasn't I familiar with it. I'm still not,
10 but -- I wasn't aware until just before the meeting Mr. Adolf
11 told me that there was a forum -- or there were things on the
12 website involving bondage. I did not know about the other
13 bestiality and that last one.

14 Q. And in the report you say: "He said that in every
15 instance the children were happy, smiling and laughing."

16 Every is a pretty strong word --

17 A. That is what he said, yes.

18 Q. He also -- reading from your report it says that, "all of
19 the photos and videos on PlayPen were of girls; only images
20 and videos of males were teenagers." Again, using the word
21 "all" is a strong word. Is that the word he would have used?

22 A. Yeah, no. If I made that a statement of his words, that
23 would be what he said, yes.

24 Now, obviously, he says, "all of them were of girls."

25 And then the next sentence he says, "the only ones of males

1 were of teenage males." So obviously he's undercutting his
2 own statement about it being "all."

3 But I -- my assumption was that somewhere on there
4 there's going to be ones of prepubescent males as well.

5 Q. Were you aware that there were entire forums dedicated to
6 preteen boy videos and photos?

7 A. No, I was not.

8 Q. You said you assumed he participated. But did you know
9 he was actually uploading child pornography of prepubescent
10 girls to the website?

11 A. No, I don't. I wasn't aware of that. But let me -- I
12 guess I'm making my computer ignorance really obvious here
13 but -- so he's uploading, meaning he's taking from -- explain
14 to me exactly what you mean by that.

15 Q. The evidence at trial showed that he put images of
16 prepubescent girls on the website. He's responsible for them
17 being on the website.

18 A. Meaning that he took the pictures or --

19 Q. No. He put those images and videos on the website for
20 other people.

21 A. I see. Okay. No, I wasn't aware of that but now I am.

22 Q. And then -- so knowing that there actually were forums
23 dedicated to just young males and that he was convicted of
24 actually participating in the female child pornography part of
25 the website, is that consistent at all with what he told you

1 about seeking out pornography that was consistent with his
2 obsession?

3 A. I don't think it's exactly inconsistent. I mean, he
4 would say -- I think I know what he would say, is that, if
5 somebody asked him, all right, you know, we want there to be
6 pictures of this. That he knows how to find things from other
7 sites, other forums.

8 What would surprise me enormously -- I'm sorry -- I'll
9 finish my sentence.

10 That he would know how to find things on other sites,
11 other forums, other resources, and he were to please this
12 community that he feels this sense of -- this management, this
13 sense of pride and success in helping out, as he viewed it,
14 that he would upload them.

15 What would surprise me enormously, this is why I reacted
16 as I did with the question when I thought you were suggesting
17 that he had actually taken photographs. Anything involving
18 any actual human interaction with a child or teenager would --
19 would surprise -- would surprise me as much as possible.

20 Q. You describe him as being "computer adept." And you
21 said, "It's possible maybe he uploaded these images because he
22 was good at finding things on the computer and adding them."

23 A. I would think he would be, yeah.

24 Q. So he could have found child pornography -- the child
25 pornography he wanted to see on his own without creating this

1 website?

2 A. I -- I -- I'm just not very knowledgeable about the world
3 of child pornography. The way he described it, people were
4 really grateful to him for providing this forum where they
5 could find everything that they wanted. Which, to me,
6 suggests that it wasn't quite as easy as that. I think he is
7 adept at computers and if people can find it, he's going to be
8 someone who is going to be able to find it.

9 I went in with an assumption or -- but it's a stereotype.
10 It's my assumption is that, yeah, everything imageable is out
11 there. And I sort of assumed that anybody could find anything
12 but I gather that's not quite the case.

13 Q. You say your opinion about why he would have created this
14 website is kind of the marrying of the relationship he had
15 with his father and his obsession with computers, correct?

16 A. Yes, I think I list one other source too but, yes.

17 Q. What was the other source?

18 A. Okay. I think the predominant one is the relationship
19 with his father in recreating that or finding that and
20 understanding that, exploring that.

21 Second is this obsessive fascination with computers.

22 And then I also said that there's also this sense of
23 success and pride that he took in doing something well, as he
24 saw it. He talked about people being very grateful to him for
25 his work on this and giving them this site that was exactly

1 what they wanted.

2 I think as the way I put it here that, you know, here's
3 this person who has been told and believed throughout his life
4 that he's an idiot, would end up as a ditch digger, and here
5 in the world of internet and servers and forums, Steven Chase
6 achieved success, albeit in the context of illegal and morally
7 reprehensible context. So that's, I think, the other
8 motivating factor.

9 Q. I guess what I'm trying to figure out is, he was a vice
10 president of a company. So he had achieved some career
11 success already.

12 A. Yeah.

13 Q. And apparently he was very successful. He said he built
14 thousands of websites and had servers based and was helping
15 other people. So why did he have to build a child pornography
16 website, if he was already achieving success in these other
17 areas?

18 A. Yeah, I don't know how much success he ever felt in those
19 other areas. He said he had done thousands of websites but he
20 also talked about, you know, websites having this many, you
21 know, minute numbers of users. How many people go to a Patco
22 Trucking Company website? Whereas, he said, he talked about
23 his excitement when -- I don't remember the exact number, but
24 after a very short time there were 1,000 users, and then there
25 were 2,000 users, or 5,000 users and how much pride he took in

1 that.

2 And, yeah, it sounds -- it sounds -- it sounds strange.
3 It sounds limited, but I don't think that he thinks quite like
4 we do. I think that his ways of viewing the world are
5 different. I think he viewed them within the context of this
6 obsessive interest in computers and servers and forums and
7 numbers. To me it reminds me hugely of -- I had a kid that I
8 worked with who knew the population density of every city in
9 the world; not the population, the population density. And he
10 would just start talking about, you know, the population
11 density of Statesville is such and such, whereas the
12 population density of Hickory is such and such. And there's a
13 quality of that with Mr. Chase where he's talking about, you
14 know, this number of fake users, but if you get this number,
15 then that converts to this number of real users and the rates
16 of conversion of it. And, yes, it went over my head but I
17 think that's what a lot of it is about for him.

18 MS. RANDALL: If I could have just one second, Your
19 Honor.

20 No further questions, Your Honor.

21 MR. ADOLF: Just briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. ADOLF:

24 Q. Dr. Mendel, the prosecutor went through a number of
25 statements from Mr. Chase in the course of your interview with

1 him, some of which you believed and took at face value, some
2 of which you were skeptical of. Do you recall that?

3 A. Correct.

4 Q. She also talked about tests that can be given to a person
5 to tease out whether they're malingering or not.

6 A. Correct.

7 Q. Now the tests that she's talking about, those are tests
8 for somebody who is faking. I think you said, psychosis?

9 A. I was referring to a specific one. The Structured
10 Interview of Reported Symptoms would really be only if
11 somebody is describing pretty extreme dramatic psychiatric
12 problems.

13 Q. And the other tests that you described that are used
14 generally in forensic psychology to identify malingering,
15 those are identifying current symptoms for the most part?

16 A. I believe so. I'm not sure if there's a way of doing any
17 of those tests retroactively. I mean, some tests have a way
18 of saying, Okay. I want you to answer this as you would have
19 at the time of your arrest or one year ago. I don't -- I
20 simply don't know that regarding the Validity Indicators
21 Profile that she mentioned. Yeah, the only tests that I know
22 of that specifically allows you to do that is not a
23 malingering test. It's the Clinician Administered
24 Post-Traumatic Survey has it set up so you can ask about
25 various timeframes in somebody's life.

1 Q. But whether it's talking about specific symptoms in the
2 present or specific symptoms at a particular time, those tests
3 still focus on psychiatric symptoms, behaviors, thoughts,
4 things of that nature, right?

5 A. All the ones that I know. The Test of Memory Malinger
6 is really focused on memory, more of a cognitive thing as
7 opposed to symptoms.

8 Q. When you say memory malinger, are you talking about
9 somebody who is pretending they don't remember something that
10 they -- could you explain --

11 A. Right. It's a way -- my understanding of that test is
12 it's really looking -- it's also a validity scale. It looks
13 at malinger. But unlike the Structured Interview of
14 Reported symptoms, or the Validity Indicators Profile, it's
15 less about psychiatric diagnoses and the validity or lack
16 thereof of those diagnoses and more about cognitive
17 functioning and people perhaps acting as if they don't
18 remember, don't recall something or are pretending or alleging
19 that they have some sort of cognitive limitation.

20 Q. So just to boil it down. Those tests that she was
21 discussing, could you use those tests and just give them to
22 someone to tell whether they had actually been sexually abused
23 as a child or if they were just saying they had been sexually
24 abused as a child?

25 A. I don't believe any of them would -- there -- there are

1 tests -- now the closest that I'm aware of would be tests of
2 PTSD. There are tests of those that have validity measures,
3 but that wouldn't be about, yes or no, were they sexually
4 abused in childhood. It would be about the veracity of their
5 statements regarding adult or later post-traumatic symptoms
6 that they're reporting as a result of the sexual abuse.
7 There's ways of looking at whether they're minimizing in some
8 cases or exaggerating those symptoms. But I don't know of any
9 tests that would look at -- I don't know of any tests that
10 would assess the credibility of someone's statements of
11 childhood sexual abuse.

12 Q. The prosecutor asked you about Mr. Chase's mother-in-law.
13 You were aware from your review of the materials that she's 90
14 years old at this point?

15 A. I knew she was quite elderly.

16 Q. She mentioned something about participating in social
17 activities.

18 A. Right.

19 Q. Would you agree with me that there's a wide range of what
20 constitutes "participating in social activities"?

21 A. Yes, I would.

22 Q. And some of those would be inconsistent with somebody who
23 has social anxiety, and/or is on the autism spectrum, and some
24 that are not?

25 A. Exactly, and that's why I sort of was bringing up the

1 idea of whether somebody is on the fringes or how much
2 involved, how much initiative they're taking.

3 Q. And if indeed the assessment that they were given before
4 was dealing with their present competence to stand trial, that
5 is, their ability to comprehend the legal proceedings,
6 understand the role of the judge, the jury, the lawyers, so
7 forth. Would somebody who had been found to be malingering or
8 exaggerating symptoms they already have or something of that
9 nature, would that necessarily mean that they would be
10 malingering regarding past events?

11 A. No, not at all. If the finding of malingering was
12 specifically -- I mean, my understanding of competency
13 evaluations is that they are supposed to be limited to the
14 questions of competency and not used in other context. That's
15 how it is in the murder cases that I am more familiar with.

16 But that's my understanding of competency evaluations is
17 that that's their purpose, is to assess ability to understand
18 legal proceedings and assist an attorney in one's defense.

19 MR. ADOLF: Nothing further. Thank you.

20 RECROSS-EXAMINATION

21 BY MS. RANDALL:

22 Q. Just briefly. In knowing you were going to be giving an
23 opinion to this Court, particularly regarding the defendant's
24 future risk and the ultimate reason why he did what he did --

25 A. I'm sorry. Can you repeat it all? I don't know if it's

1 my getting old and ears and this or if you're talking fast,
2 but I couldn't follow it.

3 Q. Sorry. I apologize. Knowing that you have, in this
4 court, given an opinion as to this particular defendant's
5 future risk, as well as offering opinions as to why he did
6 what he did.

7 A. Yes.

8 Q. Would you like to have had access to that other report to
9 know more about why he was diagnosed with malingering or why
10 there were some inconsistent characteristics for what you
11 observed?

12 A. Yes.

13 Q. And you previously testified a PPG would have been a good
14 idea.

15 A. I'm sorry. That what?

16 Q. A PPG. A penile plethysmograph.

17 A. I hadn't heard the initials for it. Yes, it sounds great
18 to me.

19 Q. Would having a penile plethysmograph or a polygraph be
20 beneficial to helping you corroborate a defendant's
21 description of past sexual abuse?

22 A. Description of past sexual abuse? I don't think --

23 Q. Sorry. A polygraph --

24 A. I don't think a penile plethysmograph would in any way
25 deal with that at all. Because somebody could have excitement

1 related to it or lack of -- no, I don't think that would be
2 relevant at all.

3 I think a polygraph could be helpful to the degree that
4 it's helpful with any question about someone's truthfulness.
5 I mean, I don't know that they're considered entirely
6 reliable. But as far as being helpful or potentially
7 supportive of evidence saying that he has or potentially
8 unsupportive or potentially refuting that, yes, I think that
9 could be helpful.

10 MS. RANDALL: No further questions, Your Honor.

11 THE COURT: No further questions?

12 MR. ADOLF: No further questions.

13 THE COURT: You may step down.

14 THE WITNESS: Thank you.

15 THE COURT: Mr. Adolf.

16 MR. ADOLF: Your Honor, I think the prosecutor has
17 something to do first.

18 MS. RANDALL: Your Honor, this is just a
19 housekeeping matter. In preparing for that restitution motion
20 I was filing, we were evaluating and checking, matching up
21 victims with who was on the website, who was in co-defendant's
22 collections and so forth. And in doing so, some of the
23 multi-victim series, we verified that while some of the
24 victims were on the website and the victims who submitted the
25 victim impact statements were not among the ones on the

1 website.

2 THE COURT: I'm sorry. You went a little fast on
3 that last --

4 MS. RANDALL: Sorry. We verified that there were
5 some victims that -- series that have, like, four victims and
6 only one of them would appear on the website. So we wanted to
7 strike the additional victim impact statements because the
8 victims either did not appear on the website or in one case
9 the image of the child would not meet the federal definition
10 of child pornography.

11 So Ms. Carrigan had filed a supplement, Your Honor,
12 that was Document 125-1 which consisted of all the victim
13 impact statements. And oddly enough it was pages 65 through
14 121 was paperwork submitted that were for victims that
15 ultimately are not on the website. So we would move to strike
16 those pages.

17 THE COURT: All right. Let that be the case.

18 Further argument from the defendant?

19 MR. ADOLF: Judge, I guess if we're ready to just
20 argue, generally, about sentencing.

21 THE COURT: Yes, sir.

22 MR. ADOLF: I'm ready.

23 Your Honor, you just heard about the unique
24 individual that Steven Chase is. I was kind of struck by
25 something that the doctor said on cross-examination that

1 Mr. Chase said when he was looking at the child pornography of
2 the children, who to him looked happy. And he said that it
3 made him sad to think that at that moment they didn't know any
4 better and they were happy and that some day they were going
5 to end up messed up like he was.

6 I think for the government to try to suggest that
7 he's making that up is just absolutely extraordinary. And we
8 just talked about an experienced clinician who's evaluated 150
9 people, who's seen many more hundreds in his clinical
10 practice, and he understands what child sex abuse survivors go
11 through. And Mr. Chase's experience is not totally unique,
12 but it really does explain a lot about how he got where he is.
13 That was the happiest time of his life, as he remembers it.
14 That's just how twisted up it is, and what it did to him.

15 At this point whether what he suffers from is
16 intense social anxiety disorder, or whether we label it as on
17 the Asperger's spectrum is not the point. It's who he is.
18 And it's what he suffered with all these years. And it's what
19 clearly came in large part out of the severe abuse that he
20 suffered as a child that warped him to this day. We're
21 talking about a man who went through his whole life who is
22 basically phobic about human contact, even with his own spouse
23 it was difficult for him for all those years.

24 Your Honor heard how he first got involved with
25 child pornography after her death. And that may be something

1 he wants to talk to the Court about. But the death of
2 anyone's wife is an incredibly traumatic and life-changing
3 event. For him even more so because for a year and a half he
4 took care of her hand and foot, had to bath her, and clean
5 her, and this was the only person he ever had any kind of
6 close relationship since he was nine years old, and clearly
7 that's when everything went downhill for him.

8 The government wants you to treat him like the
9 numbers that the guidelines say. They talk about cases
10 everywhere, and similar cases, and how people are treated. I
11 don't know that you see a lot of people in his position who
12 have never committed any offense against an actual child.
13 Never touched a child inappropriately. There's no hint that
14 he's ever done that in his entire life. In fact, he's phobic
15 about that contact. And I know that, of course, there's
16 skepticism as to anybody who's looking at child pornography
17 and involved with it. Why they wouldn't have the attraction?
18 The urge to touch actual children. And I think that is why I
19 brought Doctor Mendel in to try to explain to the Court how
20 that is possible. That not everybody looks at child
21 pornography for the same reasons. And for some people it is
22 relieving the trauma of their childhood. With Mr. Chase, the
23 trauma of his childhood is all mixed up with the good
24 memories. That's how warped he was by that experience.

25 You know, Judge, the government is going to talk at

1 great length about the damage done by child pornography to the
2 children whose -- the images of their abuse was circulated
3 around. Fifty years ago that was Steven Chase, that's who he
4 was. Merciful for him, it was never filmed. But he lives
5 those memories every day. It's affected every bit of his
6 life, and continues to affect him to this day.

7 He said something to me, both today and in the
8 recent past, about how he feels like Doctor Mendel is the
9 first person he's ever met who really understands him. That
10 he had never had any kind of therapy or any kind of -- anyone
11 giving him insight into his own issues from his childhood that
12 has haunted him.

13 And, ironically, it's through this process that for
14 the first time he started to understand the way it changed him
15 as a person and how it got him where he is today. And I would
16 just note for the record that he's trying now as he has
17 through most of this hearing and certainly throughout all of
18 Doctor Mendel's direct testimony because it's all taking him
19 back to that earlier abuse and that got him to where he is
20 today.

21 That website obviously caused harm to a lot of
22 children, but at the end of the day what we're looking at here
23 is what is appropriate for Steven Chase. What does the Court
24 do with someone who stands here convicted, at any rate, by a
25 jury who believed the government's evidence that he created

1 and ran this website, presents no significant history,
2 presents no risk of harming children in the future in person.
3 Certainly he loves computers. But it would be easy enough for
4 the Court to structure a sentence and conditions of release so
5 that some day if he does manage to survive the -- even the
6 minimum sentence this Court can impose, which is by no means
7 certain, he certainly doesn't believe he's going to survive
8 it.

9 Certainly his involvement with computers is
10 something that can be intimately monitored in real time and
11 I'm sure it will be much easier to do in the future, 20 or
12 more years from now.

13 At the end of the day, Judge, what you have is a man
14 who, outside of this website, lived a pretty law-abiding life,
15 lived a pretty productive life, in spite of the handicap of
16 his prior abuse, never came to terms with it, never knew how
17 to deal with it. It impacted his relationships and the way he
18 functioned in daily life his entire life. Despite all that he
19 was a stable worker. He was married for 20 years and took
20 care of his wife even in her decline. Thirty years at the
21 same job that's a pretty amazing thing.

22 So for all that, is this a person who, in the
23 Court's judgment, absolutely needs to die in prison? That's
24 today what the Court's judgment comes down to. Even a
25 mandatory minimum sentence of 20 years will assure that he's

1 in prison into his mid '70s, mid to late '70s. Given that his
2 father and grandfather died younger than that from dementia,
3 given the heart problems that he already suffers from, the
4 pacemaker that -- because his health has declined so much in
5 jail he's gotten so skinny you can now actually --
6 unfortunately he showed it to me the other day. It's okay.
7 We don't want to see. You can actually see the outline of the
8 pacemaker under his skin now. It looks like a hockey puck and
9 you can see the wires.

10 The question is not what kind of sentence will --
11 will meet the 3553(a) factors. I think there's no danger from
12 him going forward. I think his life, until his wife died and
13 he took up involvement with this website shows that he's no
14 danger to anybody in the future and that the Court can
15 certainly monitor him. He's going to be a registered sex
16 offender for life when he ever gets out. The question is two
17 things.

18 Number 1: Is he a person who should ever have any
19 hope of ever emerging from prison alive; and

20 Number 2: Should that be an option for the Bureau
21 of Prisons.

22 And I want to explain that a little bit further.
23 Because he doesn't believe he's going to live 20 years. And
24 given the way his health has declined and what we see now. I
25 mean, Your Honor can see him. I guess his picture -- his

1 picture is in the record as part of the presentence report. I
2 would ask the Court to take a look at the two of us at some
3 point. He's eight years older than I am. We're close enough
4 in age to be brothers and he looks like he could be my
5 grandfather. That is no accident. It would be miraculous if
6 he lived out even a 20-year sentence.

7 The difference is, right now he can at least
8 function, in terms of, he can walk around. Sometimes he
9 requires use of a walker. He can do the basic -- his basic
10 daily functioning in prison himself. That's by no means
11 certain that's always going to be the case.

12 The Bureau of Prisons does have the option to move
13 the Court some day in the future for what's called
14 "compassionate release." I know Your Honor is familiar with
15 it. Under their current regulations and policies, it requires
16 that somebody be at the stage of life or illness where they
17 are either terminally ill or whether they are so debilitated
18 that they're unable to function in a prison setting. But they
19 have to be 65 years old and they have to have served half
20 their sentence.

21 I was curious how those guidelines, those programs
22 apply to someone who is serving a life sentence. And so I had
23 the opportunity to communicate with the -- Matthew Melody who
24 is the Bureau of Prisons Regional Counsel for this region for,
25 I guess, it's the Eastern -- the southeast region who would be

1 in charge of those kinds of things, and asked if there was any
2 sort of policy.

3 Because what I had heard was, from the defender
4 community, nobody with a life sentence has ever been granted
5 compassionate release, no matter how bad their health was, and
6 no matter how debilitated or close to death they are.

7 And what he told me was that there is no strict rule
8 against it, and he would not confirm or deny that no one has
9 ever gotten it. What he said was, the fact that someone has
10 gotten a life sentence, in the judgment of the Bureau of
11 Prisons, means that the sentencing judge has made a judgment
12 that this is a person no matter what, who needs to live out
13 their days and die in prison.

14 Whereas somebody who receives a 20-year or even a
15 30-year sentence, the District Court has contemplated that
16 this is a person who may someday return to society. It's not
17 intended that that person necessarily live out every minute of
18 their life in prison. And so that given that, it is much less
19 likely that somebody gets a life sentence would ever be given
20 consideration for compassionate release.

21 And that's why what I'm asking the Court to do is
22 not to give him a sentence that he can survive, because I
23 think it's doubtful that he will no matter what. What I'm
24 asking the Court to do is to give a sentence that leaves open
25 the possibility for the Bureau of Prisons, if they decide in

1 their discretion that he has become so debilitated, so
2 disabled, and/or is so close to death that it would not just
3 be merciful but also would be cost effective and would be a
4 best use of their resources for him to serve out the last of
5 his days in a facility that's not in the Bureau of Prisons and
6 that he would be released for that purpose.

7 I don't believe -- I understand the government's
8 position, but I do not believe that there's anybody in the
9 world who would say that Steven Chase, a person who worked
10 responsibly for years, who was married for 20 years and tended
11 to his wife to her death, who has no significant criminal
12 history and has never improperly touched a child and presents
13 no risk of ever doing that, I don't think anybody would ever
14 say that he got off easy with a 20-year sentence. That is the
15 mandatory minimum. I do believe that's appropriate.

16 As I said, I don't say that because I expect it to
17 make a great deal of difference in terms of will he live 20
18 years, 30 years or 40 years. But what that sentence will do
19 is some day it will allow the Bureau of Prisons to take a look
20 at him and say, it's best for everybody if he serves out his
21 last days on earth outside and not inside. It will at least
22 give them that option.

23 And most importantly it will give the Court that
24 option. Because that's something that if the Bureau of
25 Prisons decides that that's appropriate, they'll bring it back

1 to Your Honor. And Your Honor will have the final say. My
2 understanding is that if the Bureau of Prisons refuses to do
3 that, the case law is there's no appeal from that. So this
4 Court will never even know about it, much less expend any
5 judicial resources on it.

6 But, I think, given his record, given his past, even
7 with what he's done, I don't think it's necessary that this
8 Court decide today that he needs to die in prison. I'd ask
9 the Court to leave that possibility open to the Bureau of
10 Prisons by giving him a sentence that allows them that
11 opportunity.

12 And the Court will know that even if 20 years past
13 and he emerges from prison, I think it's pretty clear from
14 everything we've heard today that he presents no risk to
15 anybody. His computer use will be managed. He'll be a
16 registered sex offender. He will be on supervised release for
17 life, if necessary, if the Court deems that appropriate.

18 So for all those reasons, Your Honor, I'm asking for
19 a 20-year sentence. If a sentence less than that were
20 available, I would be asking for that because I think that
21 would be appropriate. But I think under these circumstances
22 that is more than enough time to guarantee that everyone knows
23 how serious this crime was, that he's punished adequately for
24 it, and yet the larger needs of the Bureau of Prisons and
25 society are also met.

1 THE COURT: Thank you. Would you like to say
2 anything to the Court, sir?

3 THE DEFENDANT: I just like to say, I am not a
4 monster. I've been abused as a little baby. I have lived my
5 whole life, I've never told anybody. I've been so scared. I
6 hid in the shadows. I hid. I would tell nobody. I had no
7 friends. I didn't go to a school dance. I never had a
8 girlfriend, dam it. You know, I finished my last year of high
9 school living in the woods. I had to get my diploma and I had
10 to prove to my father that I wasn't a bum. That I wasn't
11 going to grow up to be a ditch digger.

12 Do you know how -- I ran away from home five or six
13 times starting at the age of 13. I just escaped. I jumped
14 out of the car on an interstate with snow on the ground and
15 stuck my thumb out at 14 years old and hitchhiked across the
16 country just so I wouldn't get beat up that night when I went
17 home. Dam it.

18 I hurt nobody. Never, ever, ever hurt nobody. I
19 never even knew what child porn was until this mess started.
20 Sure, I was fascinated. I talked to nobody. My wife of 20
21 years doesn't know I was sexually abused. My step mom is 90
22 years old. I never called her mom until she was probably 75
23 years old. I never called her mom. I called her, Louise. I
24 sat outside the window of her mother's house and watched my
25 Dad knock her on the ground. Dam it. I watched it. I had to

1 go to school the next day.

2 Do you know I didn't know how to tie my shoes until
3 I was in the third grade. That was my second time through the
4 third grade. I always knew I was messed up. I always knew I
5 wasn't like anybody else.

6 I couldn't -- I had no friends. I always hid. I
7 hid. People used to pick on me. They pick on me in jail.
8 You ought to see it. It's horrible. I'm actually in solitary
9 confinement right now so they don't beat me up. I just don't
10 belong in there. I get out of my cell three hours a week.

11 I did finish high school. I got a diploma. I never
12 went to graduation. I had no friends. To this day I have no
13 friends, none.

14 I met my wife in Florida. She been through two
15 abusive marriages. She had two kids -- three kids. She been
16 raped, she'd been kidnapped. Kidnapped from the courthouse,
17 Barbara Cyr, look it up. Her and I fit in good. We lived for
18 20 years with no friends. We bought an old fixer upper house,
19 paid \$100,000. Who can buy a house for \$100,000 in Southwest,
20 Florida. We put in new cabinets, new tile, new kitchen, new
21 bathrooms, we stuck with the place, replaced all the plumbing.
22 We worked our butts off on that house.

23 We raised three kids. Travis, her baby boy -- I
24 come home from work one day, Travis is dead. Travis died from
25 a heroin overdose. I had to bury Travis.

1 A few years later, Chucky, her oldest boy, Chucky
2 found dead. Chucky was abused at a deaf school. Chucky was
3 deaf, went to a school in St. Petersburg. Chucky died from
4 oxycodone overdose because he ate a whole bottle, suicide.

5 My wife was destroyed. Her and I stopped talking.
6 We never had sex. I bet I had sex a dozen times in 20 years
7 of marriage. We were both so gun shy.

8 The Government over here makes harps on me being a
9 vice president. Yes, I was the vice president. Do you know
10 why I was the vice president? I was the only one in the
11 company who had credit. We needed to buy a front-end loader.
12 So let's make Steve a vice president, now he can sign for the
13 paperwork to buy the front-end loader. At that point I think
14 we had 12 employees. Nice vice president with 12 employees.
15 I was out working on a tractor. I worked 30 years, 12 hours a
16 day, six days a week. Spent the rest of my time burying
17 family members.

18 My step mom's still alive. I'm in here for a crime
19 I committed in her living room with her watching me. That's
20 what I'm being convicted of. She watched me do this crime in
21 her living room. She knew the struggle I went through trying
22 to get a log-in page work for a customer. She heard me
23 cussing and yelling. We would talk at breakfast, Did you get
24 the log-in page fixed? I said, Yeah, I did but now I have
25 another problem. Be switching back and forth to the website.

1 Your Honor, I don't know what to say. I can go on
2 all day about my horrible life.

3 How many 14 year olds hitchhike from New Hampshire
4 to California? How many 14, 15 year olds have had jobs in
5 Texas? How many people live in the woods to go to college --
6 to go to school, I mean. I wound up in Southwest Florida. I
7 hitchhiked to Southwest Florida after I lived in a town, no
8 money, no car, no clothes, no nothing. I went to work. Yeah,
9 I had a few small arrests, nothing major, mainly to survive.
10 I fought to survive every day. I hid every day.

11 Even my wife, I cry -- I'm so embarrassed, Your
12 Honor. I am so embarrassed to be talking about this stuff.
13 Nobody ever known this stuff. I never talked to nobody.

14 I met some wonderful lady named Nancy Smith. I
15 don't even know who the heck Nancy Smith is, somebody Peter
16 brought over here. Beautiful girl, Oh my God. She sat down
17 and I talked with her for 6, 8 hours. Then she came back
18 again and we talked for hours and hours and hours and hours
19 and hours. I was so ashamed to talk to her. I cried. She
20 cried. And I talked to her. I told her what happened. I
21 told her what happened. She brought in doctor -- the heck's
22 his name -- Doctor Mendel -- Doctor Mendel.

23 Everything he said is exactly right. How did that
24 son of a gun know it? I don't know. He got everything right.
25 That's what I kept telling Peter. He's got me nailed to the

1 wall, man.

2 You talk about sucking my thumb. You want to talk
3 about embarrassing? I still suck my thumb in jail. My wife
4 has never seen me suck my thumb. That was half of our
5 marriage problems. How do you hide in a bed with sucking your
6 thumb with your wife so you can go to sleep at night? Dam it,
7 that's true.

8 All right. Your Honor, the only thing I can ask --
9 I don't want to die in prison. I don't want to die in prison.
10 I don't know what any of this stuff is even about. I built
11 the website. All right. I won't talk about the website.

12 THE COURT: Thank you.

13 THE DEFENDANT: Well, Your Honor, please don't let
14 me die in prison, please. I've got things to do. My father's
15 on his death bed. I met a preacher in Maine that helped me.
16 He helped me find peace. Start to help me forgive my father.
17 Hardest thing I ever did. I had full intention to spit on his
18 grave. My stepmom and I became best friends after my Dad
19 started getting sick. We talked on the phone. When my wife
20 was sick on her deathbed, we talked on the phone 7, 8 hours a
21 day, seven days a week. We were buddies. She don't know
22 anything about me.

23 My father, on his deathbed, had one last saying. He
24 said to my step mom, he said, "Steve is the only one that
25 doesn't get it."

1 After being in jail now for two years and some odd
2 days, whatever, I can say I get it now. My father was talking
3 about God. Yes, Your Honor, I get it now. I'm so dammed
4 sorry if I hurt anybody. I never had no intention on hurting
5 nobody. All I want to do is hide. All I want to do is
6 survive. That's all I want to do. My wife is dead. My kids
7 are dead. My dad is dead. My mom is dead. Pat Jones, the
8 owner of Patico Trucking, he died while my wife was on her
9 deathbed. Put me out of business. I ain't worked in over a
10 year before this happened. Left me by myself. Left me by my
11 dam self. No friends. I'm sorry. But thank you for letting
12 me talk.

13 THE COURT: Yes, sir.

14 MR. JONES: Thank you. Reggie Jones on behalf of
15 the United States. Just briefly, Your Honor.

16 Throughout the defendant's statements, Your Honor,
17 it's me, me, me. It's all about him. You know, defendant
18 states, I never hurt anybody. Your Honor, that's not true.
19 This defendant has hurt countless victims, Your Honor, and he
20 shows no remorse. He hadn't hurt anybody, Your Honor? Just
21 listen to one of the victim impact statements which states,
22 you know, "I had to give up modeling and acting because if
23 someone saw my face on TV or on a billboard they might say
24 something and it gets out to the whole world instead of just a
25 few people knowing. I also have to constantly worry if

1 someone finds out and goes home and looks up the pictures and
2 see them, it would not only be uncomfortable for the both of
3 us, but the person might tell someone who tells another person
4 then soon enough the whole school would know. All of this I
5 have to worry about to add stress just because of stupid
6 pictures that people look at and make my life harder. For
7 once, I want to live a normal life with dreams and hopes of
8 reaching them. I can't because of these pictures."

9 Your Honor, so the defendant's contention of him
10 creating and running a massive child pornography website with
11 over 150,000 members, dedicated to the sexual abuse of
12 children as young as toddlers and infants, Your Honor, and he
13 didn't hurt nobody? Your Honor, that's simply not true. He
14 has hurt countless victims, Your Honor, by way of his criminal
15 conduct.

16 Just briefly, Your Honor, in regards to a statement
17 the defendant makes in his sentencing memo. It states that
18 the sentencing guidelines call for a conviction for the
19 defendant running a website where other people posted and
20 downloaded photos and videos depicting the sexual abuse of
21 children.

22 Your Honor, this defendant still refuses to take
23 responsibility for his actions. Even after he had been
24 convicted for every single count for which he has been
25 charged.

1 Your Honor, the sentencing guidelines are
2 established to provide federal judges with a fair and
3 consistent ranges at sentencing, Your Honor. And this
4 defendant's guideline range is off the charts. It's higher
5 than the 43, Your Honor, and that's rare. And there's ample
6 justification in this case, Your Honor, for a guideline
7 sentence.

8 I talked a little bit about, and you saw, Your
9 Honor, throughout the course of this week-long trial of just
10 how egregious those images and photos were of those websites,
11 Your Honor, of infants and toddler-aged children, Your Honor.

12 You also heard testimony about how this website
13 operated on the Dark Web, Your Honor. This wasn't just a site
14 you can get on the regular internet and operate, Your Honor.
15 This website contained the most egregious and vial child
16 pornography activity, because these offenders who operated on
17 what they perceived to be, Your Honor, the safe haven of the
18 Dark Web.

19 So what you have is the worst of the worst
20 offenders, Your Honor, on the site that this defendant
21 created, that this defendant ran. And that this defendant
22 encouraged users to use encryption in order to avoid law
23 enforcement.

24 Another important point to make, Your Honor, it's
25 just not -- these -- as bad as it is, these individuals just

1 didn't get on the site to trade, view, and distribute child
2 pornography, Your Honor, but they also gave advise. They gave
3 hands-on advice. Advice about how to groom kids as we
4 attached some of those exhibits to our sentencing memo, Your
5 Honor. So they encouraged each other about how to sexually
6 exploit children, Your Honor.

7 Also, Your Honor, the defendant boasted about how
8 big this child pornography website was. In one post he says,
9 "I just want to thank you guys for helping make PlayPen a good
10 board. Day is the 16th day since I started PlayPen and
11 already I've had more than 26,000 members." In another,
12 "77,000 members in one month. I only wish more would post".
13 Pleased to announce that PlayPen has moved to a more secure
14 server."

15 So not only does this defendant create and run this
16 website depicting the sexual abuse of children, a website
17 where individuals engaged in grooming and hands-on abuse in
18 grooming and giving advice on how to abuse children, but this
19 defendant, on numerous occasions, boasted about this, Your
20 Honor. Boasting about the size of the site and how he wished
21 more people would post.

22 In talking about the history and characteristics of
23 this defendant, Your Honor, I just briefly want to talk about
24 his characteristics.

25 As reflected in the PSR, this defendant, he states

1 that his expert said that he just liked to design websites,
2 looking for images of boys similar to him when he was a child.

3 Your Honor, as reflected in this PSR, this defendant
4 created over 41 threads, made hundreds of posts, sent hundreds
5 of private messages and received private messages. Some of
6 the posts of child pornography that this defendant made, Your
7 Honor, were of little girls, Your Honor. As of one video
8 posted by the defendant featured an adult male holding a
9 toddler with a camera focused on her privates. Another post
10 of 11 minute video showing three little girls stripping down to
11 the camera, Your Honor. And I won't even go into the
12 egregious of this remaining post, Your Honor, but it's notated
13 in paragraph 15 of the PSR, Your Honor.

14 So this defendant, Your Honor, throughout the course
15 of trial, throughout the course of this sentencing hearing,
16 Your Honor, he has failed to show any remorse and take
17 responsibility for his actions, Your Honor.

18 Deterrence, Your Honor, which is also important in
19 the cases, Your Honor, but it is even more uniquely important
20 in this case, Your Honor. Because as I said, you know, we
21 were fortunate enough in this case to be able to apprehend the
22 defendant. Because as you heard during trial, the website was
23 misconfigured so we were able to find out where the site was
24 hosted and then apprehended the defendant and other offenders
25 committing child abuse.

1 But this isn't the norm, Your Honor. You know,
2 there are other websites out there, Your Honor, like PlayPen,
3 where we can't get to. We can't shut them down, Your Honor.
4 They're on the Dark Web. And, you know, that's one of the
5 reasons you have the worst of the worst offenders out there,
6 Your Honor, because they know that they can evade law
7 enforcement by being on the Dark Web, Your Honor. And for
8 every one of the defenders like this defendant and some of the
9 others caught on the Dark Web, Your Honor, there are thousands
10 more, Your Honor, that go without being caught. But they'll
11 know your sentence today, Your Honor. They keep track of all
12 these cases, Your Honor, whether it be search warrants or
13 other court documents, Your Honor.

14 And the United States asks that your sentence today,
15 Your Honor -- and they'll know. And we ask that you send a
16 message with this sentence, Your Honor. A message that not
17 only will these offenders be caught, they will also be
18 prosecuted and sentenced to the fullest extent of the law,
19 Your Honor. And the public will also be protected from the
20 trading of these images.

21 A couple more points, Your Honor, regards to the
22 need to avoid sentencing disparities.

23 Defendant served as a leader of the site, Your
24 Honor. He created the site. You know, both of his
25 co-defendants immediately pled guilty, one even testified at

1 trial, Your Honor, and they were sentenced to 20 years in
2 prison.

3 The United States believes that it wouldn't be
4 disparity, Your Honor, if you give this defendant the same
5 sentence as his co-defendants who have pleaded guilty, Your
6 Honor, and accepted responsibility for this egregious conduct
7 which the defendant still to this day, Your Honor, has not
8 done.

9 So the United States requests that a guideline
10 sentence would be consistent in this case, Your Honor, with
11 regards to similar defendants.

12 We also cite in our memo, Your Honor, how defendant
13 similar -- that have committed similar crimes as this
14 defendant have received guideline sentences, Your Honor, 30
15 years sentences and life sentences, Your Honor. So we ask
16 that you take that into account as well, Your Honor.

17 Finally, we also would like to note that, you know,
18 as probation stated in the PSR, Your Honor, that there's no
19 factors that would warrant a variant sentence from the
20 guidelines range in this case, Your Honor.

21 So United States submits, you know, based on the
22 totality of the circumstances in this case, Your Honor, the
23 guideline sentence is appropriate.

24 And one final point we would like to make, Your
25 Honor, in regards to the defendant's Compassionate Release

1 Program.

2 First of all, Your Honor, the only medical condition
3 that has been corroborated with Mr. Chase, Your Honor, as
4 cited in the PSR of Mr. Chase is that he has a pacemaker, Your
5 Honor. And these other medical conditions, whether it be
6 Autism Spectrum Disorder or anxiety and depression, Your
7 Honor, these conditions were not so severe as to keep him from
8 creating and running this website dedicated to the sexual
9 abuse of children, Your Honor.

10 It also didn't keep him from participating in extra
11 curricular activities, Your Honor, as in three weeks before he
12 was arrested for this conduct, he was out skiing, Your Honor,
13 skiing the Black Diamond.

14 So when and if Mr. Chase is ever eligible for this
15 program, Your Honor, is totally irrelevant to the 3553(a)
16 factors that Your Honor should take into account today, Your
17 Honor. Because the defendant's sentencing today should in no
18 way be based on what his medical condition may be in the
19 future, Your Honor.

20 So we ask that this Compassionate Release Program
21 have no bearing on what sentence you impose today.

22 And as I stated before and as I stated when we
23 started, the United States submits that a guideline range
24 sentence is appropriate and fair in this case.

25 Thank you, Your Honor.

1 THE COURT: All right. Thank you. Anything further
2 before the Court states a sentence?

3 MR. ADOLF: No, Your Honor.

4 MS. RANDALL: Well, Your Honor, the only other
5 outstanding matter is the restitution. We did file a motion
6 to hold it open. I realize it's 5:00 already today, but I
7 would note that Mr. Adolf had objected to our motion to hold
8 open the restitution issue.

9 THE COURT: I will allow the 90-day period for you
10 all to work out restitution.

11 MR. ADOLF: Judge, my request, given the Court's
12 ruling and granting the government 90 days, is that I'm not
13 going to agree to any restitution at this point without a
14 hearing. So if the government does indeed want restitution
15 ordered, once they have all the information within 90 days, I
16 would ask that a hearing be set on that.

17 THE COURT: Well, I wouldn't make that decision now.
18 I don't think you've seen what the government might do by way
19 of approaching the issue of restitution. You don't like what
20 the government proposes, you can counteroffer, you can try to
21 work it out. If that doesn't happen you can give notice you
22 would like to have an appeal.

23 MR. ADOLF: Yes, Your Honor.

24 THE COURT: Or, rather, a hearing.

25 MR. ADOLF: Yes, Your Honor.

1 THE COURT: Now, I will recite a number of factors
2 that stand out in terms of the defendant's arguments, then
3 I'll do likewise for the government. The sentence will be
4 very close to a guideline sentence.

5 The defendant has argued that his health concerns
6 should be taken into account under the 3553(a) factors. That
7 would include the recitals in the presentence report and by
8 Doctor Mendel, the near autism symptoms, the bipolar diagnosis
9 from the past, anxiety disorder and depression disorder.
10 Those go to his overall health which appears to be
11 deteriorated in the sense of his pacemaker and related heart
12 issues.

13 Also the Court notes that he, at age 57, he's an
14 older offender, subject to reduced general risk of recidivism.
15 It is certainly possible that somebody of any age could do
16 what the defendant did, but we're talking about the upper end
17 of the range here and that appears to be an area where age
18 should appropriately be taken into some account.

19 The defendant cites his absence of criminal history,
20 which is to his credit, his 30-year job performance, his
21 20-year marriage, all of these things show a certain amount of
22 stability before the criminal conduct began.

23 The fact that he hasn't had any -- his offense, I'm
24 going to describe the seriousness of the offense which is the
25 driving factor in this sentence. It did not include contact

1 offense. And Doctor Mendel doesn't believe contact offense is
2 a likely risk in the future. He is, according to the doctor,
3 not a threat to children in person. That he did not,
4 apparently, create images. He certainly had something to do
5 with posting images, and he was well aware, undoubtedly, that
6 his subordinates were juggling content, moving images around.
7 Even if defendant didn't post any or create any images
8 himself, which I doubt. He was well aware it was going on and
9 that was what they were doing, was getting those images out
10 where people could view them and that results in the
11 incredible harm to the victims.

12 The compassionate release idea is rather novel for
13 these arguments, but it's undoubted that he would be well
14 advanced in age if he served the entire sentence.

15 Doctor Mendel's report I think is credible and
16 indicates that defendant did not identify as the aggressor,
17 but as the victim of his father's degradations. Albeit the
18 defendant as a son interpreted them otherwise at the time.
19 The father's subsequent behaviors shows he was no angel and
20 that's another matter. Those were no doubt insipient events
21 in the defendant's life, both the age five to nine conduct, as
22 the defendant being that age, and the subsequent physical and
23 mental abuse he took from his father and that fed his autistic
24 tendency in terms of his relationship. However, it didn't
25 prevent his serving that effective 30-year career in

1 productive and gainful employment and, likewise, marriage.

2 The seriousness of the offense can hardly be
3 understated. It's one where the defendant made possible, an
4 enormous website, with enormous realized capacity to harm
5 victims, as has been well documented in the government's
6 papers and in the presentence report. The government's
7 exhibits are well taken. The victims who were quoted, simply
8 as examples, the Court admits all the government exhibits as
9 to victim statements into evidence.

10 Also the customer posts that the government quoted
11 are poignant in terms of the kind of damage and norming --
12 vice norming of behavior that these -- this website encouraged
13 and propagated.

14 So the sentence therefore must recognize the
15 seriousness of the offense, just punishment, respect for the
16 law. That one is particularly relevant here because the whole
17 idea of the website and the way it was conducted and the
18 genius that went into it to make it what it was, was entirely
19 surrounded by lack of respect for the law. It was aimed at
20 disrespecting the law. It was aimed at avoiding the law and
21 making possible criminal conduct by literally thousands of
22 individuals resulting in thousands of victims.

23 The government cites a need for deterrence, which is
24 certainly important in cases of this type, particularly
25 because such offenses are hard to detect, and that's what made

1 it such an insidious behavior for the defendant to use his
2 considerable computer skills to help avoid and deflect law
3 enforcement.

4 The government also argues unwarranted disparity
5 which is very appropriate. You have two other defendants who
6 richly deserved their 240 month sentences. They were at the
7 mandatory minimum. But nevertheless, this defendant is
8 certainly more culpable by far. It's sort of like if a person
9 gave a wrongdoer a rifle, that would be bad enough if this
10 defendant gave his -- gave the world a howitzer to spread and
11 propagate the viscous and insidious activities promoting
12 images of totally innocent children. Albeit he wasn't a
13 producer, he made it possible to encourage production by the
14 nature of his activity.

15 The government brought out various limitations on
16 Doctor Mendel's work, but they did seem to be within the realm
17 of what he was assigned to do.

18 He does not -- the defendant does not appear to
19 recognize the evil of the spread of images such as he
20 facilitated.

21 The findings of Doctor Mendel that defendant was not
22 himself a pedophile or sexually attracted to children are
23 immaterial, in large part, because the seriousness of the
24 offense overwhelms concerns about defendant's precise
25 motivations.

1 Having these facts in mind, paragraph 64 indicates
2 the offense level that pertains, counting up the various
3 enhancements, but they are -- they result in a 45 and the
4 offense level becomes 43 because of the fact that that's the
5 top of the guideline table.

6 But the Court's view is that the concerns about
7 health and age of the defendant would make appropriate a
8 2-level downward variance to 43. And his history as an abused
9 child himself, while not exculpatory, does tend to mitigate
10 down one level which would result in a level 42 and a 360 to
11 life guideline.

12 So Pursuant to the Sentencing Reform Act of 1984,
13 the *Booker* case, and 18 U.S. Code 3553(a), the defendant will
14 be committed to custody for a term of 360 months on Count One,
15 360 months on Count Three, and 240 months on each of Counts
16 Four through Seven, all to be served concurrently.

17 The Court recommends that the Sex Offender Treatment
18 Program if defendant is eligible.

19 The Court recommends the mental health treatment
20 programs that may be available in the BOP and, further, the
21 Substance Abuse Treatment Program, 18, U.S. Code 3621(e)(2).

22 The Court further recommends his participation in
23 any educational and vocational opportunities while
24 incarcerated.

25 If he is released from prison, a life term of

1 supervised release is ordered. That consists of life on
2 Counts One and Three through Seven all running concurrently.

3 Within 72 hours of release from custody he shall
4 report in person to the probation office in the district to
5 which he is released. While on supervised release, he shall
6 not commit -- he shall comply with the standard conditions of
7 supervised release, and the standard sex offender conditions
8 of supervised release that have been adopted by this Court and
9 shall comply with the additional condition that he submit to a
10 mental health evaluation and treatment program under the
11 guidance and supervision of the U.S. Probation Office.

12 He shall remain in treatment and maintain any
13 prescribed medications until satisfactorily discharged by the
14 program with the approval of the probation office.

15 Further ordered that he pay the United States a
16 special assessment of \$600. He does not have the ability to
17 pay a fine, interest, and court-appointed attorneys fee. The
18 Court having considered the factors noted in 18, U.S. Code
19 3572(a) will waive the payment of fine and interest and
20 attorneys fees in this case.

21 He shall forfeit his interest in any properties
22 identified by the United States.

23 Payment of the criminal monetary penalty including
24 any -- including such restitution as may be ordered after the
25 parties have had a chance to look at it, that will be due and

1 payable immediately.

2 The Court has considered the financial and other
3 information contained in the presentence report and finds that
4 the following is feasible:

5 If the defendant is unable to pay any monetary
6 penalty immediately, then during the period of imprisonment,
7 payment shall be made through the Federal Bureau of Prisons
8 Inmate Financial Responsibility Program.

9 Upon release from imprisonment, any remaining
10 balance shall be paid in monthly installments of no less than
11 \$50 to commence within 60 days until paid in full.

12 Throughout the period of supervision the probation
13 officer shall monitor his economic circumstances and report to
14 the Court with recommendations as warranted any material
15 changes that affect his ability to pay any court ordered
16 penalties that are not paid through the Inmate Financial
17 Responsibility Program.

18 The Court would mention that in some cases the
19 enhancement for computer is given less weight because of the
20 fact that so many if not all of these cases involve computers.
21 But this case is certainly one where the computer was an
22 essential focus and the fulcrum on which the entire offense
23 operated. So that was an entirely appropriate enhancement.

24 Would he wish to be placed at a certain location?

25 MR. ADOLF: Yes, Your Honor. I would ask for

1 designation as close to Carrabassett Valley, Maine, as
2 possible. That's his stepmother's residence. That's the only
3 relative he's in contact who there might conceivably be some
4 sort of visitation.

5 THE COURT: All right, sir. I'll make that
6 recommendation.

7 MR. ADOLF: Thank you.

8 THE COURT: Order of Forfeiture, Document 131,
9 entitled, "Amended Preliminary Order of Forfeiture" is hereby
10 incorporated into this judgment as a part of it.

11 You're entitled to appeal, to do that you would have
12 to given a written notice of appeal within 14 days after the
13 Court files its sentencing judgment resulting from today's
14 hearing.

15 You may appeal without prepayment of costs since
16 you've been found to be indigent. Your attorney would file
17 the notice of appeal for you if you asked him to do that, as
18 would the Clerk of Court, and you may also file it yourself.

19 Anything further?

20 MS. RANDALL: Not from the government, Your Honor.

21 MR. ADOLF: No, Your Honor.

22 THE COURT: Thank you.

23 (The matter is concluded at 5:20.)
24
25

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF NORTH CAROLINA
3 CERTIFICATE OF OFFICIAL REPORTER

4 I, Laura Andersen, Federal Official Court Reporter,
5 in and for the United States District Court for the Western
6 District of North Carolina, do hereby certify that pursuant to
7 Section 753, Title 28, United States Code that the foregoing
8 is a true and correct transcript of the stenographically
9 reported proceedings held in the above-entitled matter and
10 that the transcript page format is in conformance with the
11 regulations of the Judicial Conference of the United States.

12 Dated this the 14th day of August, 2017.

13
14 S/Laura Andersen
15 Laura Andersen, RMR
16 Federal Official Court Reporter
17
18
19
20
21
22
23
24
25